Supreme Court, U. S.
FILED
AUG 31 1977
MICHAEL RODAK, JR., CLERK

APPENDIX

IN THE

Supreme Court of the United States

OCTOBER TERM, 1977

No. 76-1114

CALIFORNIA, *et al.*, *Petitioners*

v.

SOUTHLAND ROYALTY COMPANY, *et al.*

No. 76-1133

EL PASO NATURAL GAS COMPANY, *Petitioner*

v.

SOUTHLAND ROYALTY COMPANY, *et al.*

No. 76-1587

FEDERAL POWER COMMISSION, *Petitioner*

v.

SOUTHLAND ROYALTY COMPANY, *et al.*

On Writs of Certiorari to the United States Court of Appeals for the Fifth Circuit

---

PETITIONS FOR WRITS OF CERTIORARI FILED
February 12 and 16 and May 12, 1977
CERTIORARI GRANTED JUNE 27, 1977

VOLUME I
Pages 1-364

Supreme Court of the United States

OCTOBER TERM, 1977

Nos. 76-1114 *et al.*

CALIFORNIA, *et al., Petitioners*

v.

SOUTHLAND ROYALTY COMPANY, *et al.*

On Writs of Certiorari to the United States Court of Appeals for the Fifth Circuit

---

TABLE OF CONTENTS

VOLUME I
Pages 1-364

VOLUME II
Pages 365-746

Item	Record Pagination	Appendix Pagination
Relevant Docket Entries		1
Gulf Oil Corporation Application for Certificate of Public Convenience and Necessity, Docket No. G-7156, received 11/30/54	636-643	2-8
Notice of Gulf Oil Corporation Application for Certificate of Public Convenience and Necessity, G-7156, issued 4/19/56	644-652	9-22

Item	Record Pagination	Appendix Pagination
Findings and Order Issuing Certificate of Public Convenience and Necessity to Gulf Oil Corporation, Docket No. G-7156, issued 5/28/56	653-664	23-40
The documents listed below are from Warren Petroleum Co., A Division of Gulf Oil Corp. FPC Gas Rate Schedule No. 43:		
Residue Gas Purchase Agreement dated 1/26/51, filed 11/30/54	539-565	40-64
Supplement No. 2, dated 10/30/53, filed 11/30/54	566-567	64-66
Supplement No. 5, Agreement, dated 9/1/55, filed 5/34/56	568-570	67-69
Supplement No. 7, Agreement dated 12/15/56, filed 1/29/58	571-572	70-72
Amendatory Agreement, dated 10/26/59, filed 11/30/59	573-578	73-78
Supplement No. 17, Amendment dated 4/17/72, filed 5/11/72	579-581	79-81
Findings and Order Issuing Certificate of Public Convenience and Necessity, G-13445, issued 2/24/58	596-598	82-85
Warren Petroleum Co., A Division of Gulf Oil Corp. FPC Gas Rate Schedule No. 66:		
Residue Gas Purchase Agreement, dated 3/1/72	582-592	86-97
Exhibit B	593-595	98-101

Item	Record Pagination	Appendix Pagination
Notice of Certificates of Public Convenience and Necessity Issued to Producer Respondents Pursuant to Opinion No. 662 and Designation of FPC Gas Rate Schedules and Gas Rate Schedule Supplements Accepted for Filing, CI-72-760, issued 7/22/74 ...	599-612	102-116
El Paso Natural Gas Company Petition for Issuance of a Declaratory Order, CP75-209, dated 1/17/75, received 1/20/75	1-48	117-191
Notice of Petition for a Declaratory Order, issued 1/30/75	49-51	192-195
El Paso Corrections to Petition, dated 1/30/75, received 2/3/75	52-53	196-197
Southern California Gas Company Petition for Permission to Intervene, dated 2/5/75, received 2/6/75	54-57	198-201
Mobil Oil Corp. Petition for Leave to Intervene, dated 2/7/75, received 2/10/75	58-62	202-205
Southwest Gas Corp. Petition for Leave to Intervene, dated 2/12/75, received 2/14/75	65-69	206-210
State of California Notice of Intervention, dated 2/13/75, received 2/18/75	70-71	211-212
Exxon Corporation Petition for Leave to Intervene, dated 2/14/75, received 2/18/75	72-75	213-216
Texaco Inc. Petition for Leave to Intervene, dated 2/13/75, received 2/18/75	76-79	217-219

Item	Record Pagination	Appendix Pagination
El Paso Supplement to Petition filed 1/20/75, dated 2/21/75, received 2/24/75	80-82	220-224
Mitchell Energy Corp. Petition for Leave to Intervene, dated 2/20/75, received 2/25/75	83-87	225-228
Pacific Gas and Electric Co. Petition to Intervene, dated 2/26/75, received 2/28/75	88-92	229-232
Exxon Corp. Answer to Petition for Issuance of Declaratory Order and Request for Briefing Schedule, dated and received 3/3/75	93-101	233-241
Mineral Interest Owners Petition to Intervene and Answer to Petition for Declaratory Order, dated and received 3/3/75	102-125	242-265
Corrections dated and received 3/5/75	126-127	266-268
Gulf Oil Corp. Petition to Intervene and Response, dated 2/27/75, received 3/3/75	128-134	269-276
El Paso Answer to Petition filed last above, dated 3/12/75, received 3/13/75	135-140	277-282
Mineral Interest Owners Answer to Petition of Mitchell Energy Corp. for Leave to Intervene, dated and received 3/17/75	141-146	283-288
Texaco Inc. Petition for Issuance of a Declaratory Order, CI75-594, dated 4/7/75, received 4/8/75	147-159	289-298
Notice of Petition for Declaratory Order, issued 4/22/75	160-161	298-300

Item	Record Pagination	Appendix Pagination
El Paso Motion for Briefing Schedule and Answer to Petition of Texaco for Issuance of a Declaratory Order, dated 4/23/75, received 4/25/75	162-169	301-309
Texaco Inc. Motion to Consolidate Proceedings, dated 4/28/75, received 4/30/75	170-172	310-311
El Paso Petition for Leave to Intervene and Answer to filing last above, dated 4/23/75, received 5/6/75	173-187	312-327
Mineral Interest Owners Response to Motion for Briefing Schedule, dated and received 5/7/75	188-192	328-333
Mineral Interest Owners Petition to Intervene, dated and received 5/12/75	193-198	334-338
Gulf Oil Corp. Petition to Intervene and Response to Petition of Texaco, dated 5/9/75, received 5/12/75	199-210	339-349
Northwest Pipeline Petition to Intervene, dated and received 5/14/75	211-213	350-352
Phillips Petroleum Co. Petition to Intervene and Response, dated 5/21/75 and received 5/27/75	214-220	353-357
Order Consolidating Proceedings, Granting Petitions to Intervene, and Prescribing Schedule for Filing of Briefs, issued 6/3/75	221-225	358-364
VOLUME II		
Initial Briefs Filed:		
Commission Staff	238-253	365-382
State of California	254-263	383-394
El Paso Natural Gas Co.	264-292	395-434

Item	Record Pagination	Appendix Pagination
Exxon Corporation	293-305	435-451
Gulf Oil Corporation	306-315	452-465
Mineral Interest Owners	316-340	466-492
Mitchell Energy Corp.	341-345	493-498
Texaco Inc.	346-353	499-507
Reply Briefs Filed:		
Commission Staff	354-360	508-514
El Paso Natural Gas Co.	361-376	515-536
Exxon Corporation	377-383	537-545
Mineral Interest Owners	384-404	546-567
Phillips Petroleum Corp.	405-407	568-570
Texaco Inc.	408-414	571-577
Southwest Gas Corp. Answer in Support of El Paso Brief, dated 6/23/75, received 6/25/75	415-418	578-579
Exxon Corporation Motion for Inclusion of Protective Order, dated and received 7/2/75	419-423	580-585
Mineral Interest Owners Response to filing last above, dated and received 7/3/75	424-426	586-588
Gulf telegram supporting Exxon's motion, dated and received 7/7/75	427	589
El Paso Answer to Exxon's motion, dated and received 7/10/75	428-433	590-594
Exxon Response to El Paso filing last above, dated and received 7/11/75	434-436	595-597

Item	Record Pagination	Appendix Pagination
Opinion No. 737, Declaratory Opinion and Order on Termination of Long-Term Leases, issued 7/11/75	437-447	598-611
Texaco Inc. Applicaton for Rehearing, dated 8/1/75, received 8/4/75	448-452	612-615
Mineral Interest Owners Application for Rehearing, dated and received 8/8/75	453-501	616-674
Exxon Corporation Application for Rehearing, dated and received 8/8/75	502-510	675-685
El Paso Application for Rehearing, dated and received 8/11/75	511-516	686-691
Gulf Oil Corporation Application for Rehearing, dated 8/8/75, received 8/11/75	517-523	692-700
Mobil Oil Corp. Application for Rehearing, dated 8/11/75, received 8/13/75	524-530	701-707
Opinion No. 737-A, Opinion and Order Denying Rehearing But Adopting Per Curiam, issued 9/3/75	531-538	708-718
Mineral Interest Owners Application for Rehearing of Limited Aspects of Opinion No. 737-A, dated 10/2/75, re-received 10/3/75	613-623	719-729
Texaco Inc. Response to Application filed last above, received 10/20/75	624-629	730-734
Order Granting Rehearing for Purposes of Further Consideration on Limited Issues Relating to Filing Requirements, issued 10/31/75	630-631	735-737

Item	Record Pagination	Appendix Pagination
Opinion No. 737-B, Opinion and Order Granting Rehearing on Limited Issue Relating to Filing Requirements, issued 12/18/75	632-635	738-743
Reference to the Opinion of the Court of Appeals for the Fifth Circuit. Dated December 13, 1976		744
Reference to the Judgment of the Court of Appeals for the Fifth Circuit. Dated December 13, 1976		745
Order Granting Petitions for Writs of Certiorari. Dated June 27, 1977 ..		746

IN THE
UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

(TITLE OMITTED IN PRINTING)

Relevant Docket Entries

Opinion .....December 13, 1976

Judgment .....December 13, 1976

[636] UNITED STATES OF AMERICA
FEDERAL POWER COMMISSION

Docket No. G-7156

In the Matter of the Application for Certificate of Public Convenience and Necessity by Gulf Oil Corporation, an Independent Producer of Natural Gas

Application

Gulf Oil Corporation hereby makes application under and pursuant to § 7 of the Natural Gas Act for a Certificate of Public Convenience and Necessity with respect to the sale of natural gas herein specifically described, and, in connection therewith, shows the following:

1

Gulf Oil Corporation, hereinafter referred to as "Applicant", is a Pennsylvania corporation authorized to do business in the following states, to wit:

Arizona	New Mexico
California	New York
Colorado	North Carolina
Connecticut	North Dakota
Delaware	Oklahoma
Florida	Oregon
Georgia	Rhode Island
Idaho	South Carolina
Kansas	South Dakota
Maine	Texas

[637]

Maryland	Utah
Massachusetts	Vermont
Minnesota	Virginia
Missouri	Washington
Montana	West Virginia
Nebraska	Wisconsin
New Hampshire	Wyoming
New Jersey	District of Columbia

2

No predecessor in interest of Applicant has, on or since June 7, 1954, had any interest in, or made any sale of, the natural gas covered by the contract which is the subject of this application.

3

Until further notice, all correspondence or communications in regard to this Application may be addressed to Ralph O. Rhoades, Vice President, Gulf Oil Corporation, P.O. Box 1166, Pittsburgh 30, Pennsylvania.

4

A statement of the pertinent facts applicable to the sale of gas for which a certificate is herein sought, is as follows:

(a) Kind of gas (indicate one)—☐ dry gas, ☐ casinghead gas, ☒ residue gas

(b) Date of contract—January 26, 1951, as amended

(c) Name of purchaser of gas from Applicant—El Paso Natural Gas Company

(d) Contract volumes M. C. F. (daily or annually), indicating pressure base—30,000 MCF per day measured at 14.65 psia

[638] (e) Price on June 7, 1954, or commencement date of gas deliveries—10¢ per MCF measured at 14.65 psia

(f) Term of contract—20 years

(g) Special conditions (if any)—Casinghead gas is gathered, compressed, treated, processed, and dehydrated by Gulf Oil Corporation, and the residue gas is delivered to the El Paso Natural Gas Company at the tailgate of the Plant.

Said contract has this date been filed with the Commission as a rate schedule and is incorporated by reference. In connection with the gas sale referred to above, Applicant would show the following:

(I) Source of the gas produced by Applicant:

Field: Dune, Edwards, Sand Hills McKnight, Sand Hills Ordovician, Sand Hills Tubb, University-Waddell Devonian, University-Waddell Ellenburger, and Waddell

County or Parish: Crane County

State: Texas

Delivery Points: At outlet of lease separators

Source of gas purchased by Applicant, if any:

Field: Dune, Edwards, Sand Hills McKnight, Sand Hills Ordovician, Sand Hills Tubb, University-Waddell Devonian, University-Waddell Ellenburger, and Waddell

County or Parish: Crane County

State: Texas

Delivery Points: At outlet of lease separators

Names of Sellers: American Liberty Oil Co., The Atlantic Refining Co., General American

Oil Co., Great Western Producers, Inc., Humble [639] Oil and Refining Co., Lario Oil and Gas Co., Magnolia Petroleum Co., Ohio Oil Co., Phillips Petroleum Co., R. F. Windfohr & The Ibex Co., Shell Oil Co., Skelly Oil Co., Samedan Oil Corp., and W. H. Black Oil Co.

(II) (Strike one of the following:)
Gathering lines of Applicant connect its well or wells to the delivery point or points referred to above.

(III) Applicant did not serve any communities with natural gas on June 7, 1954 at wholesale or retail.

(IV) Applicant serves no main line industrial customers with natural gas.

(V) Major pertinent properties or facilities, if any, such as compressor stations, gasoline plants, dehydration plants, purification plants, and gas storage projects:

(If any, describe briefly. If not state none.)

Gathering system, compressors, treaters, processing equipment, dehydration equipment, and other gasoline plant equipment used for processing casinghead gas before the residue gas is delivered to the El Paso Natural Gas Company.

[640] 5

Notice of this Application has been served by registered mail upon the agency or person below indicated by an "x" mark:

☐ Oil and Gas Conservation Commission of the State of Colorado
Denver, Colorado

☐ State Corporation Commission of the State of Kansas
Topeka, Kansas

☐ Montana Oil & Gas Conservation Commission
State Capitol
Helena, Montana

☐ Governor Robert B. Crosby
State of Nebraska
State Capitol
Lincoln, Nebraska

☐ Oil Conservation Commission
State of New Mexico
Santa Fe, New Mexico

☐ State Industrial Commission
State of North Dakota
Bismarck, North Dakota

☐ Oklahoma Corporation Commission
Capitol Office Building
Oklahoma City, Oklahoma

☒ Railroad Commission
State of Texas
Tribune Building
Austin, Texas

☐ Governor J. Bracken Lee
State of Utah
State Capitol
Salt Lake City, Utah

[641]

☐ Department of Mines
State of West Virginia
State Capitol
Charleston, West Virginia

☐ Oil & Gas Conservation Commission
State of Wyoming
State Capitol
Cheyenne, Wyoming

6

Applicant expressly reserves all of its rights and remedies, legal, equitable and administrative, including its Motion for Rehearing of Order 174-A filed with this Commission on August 16, 1954, to question, contest or oppose in any manner (i) the jurisdiction of the Commission over this Applicant, its properties and operations, including the sale of natural gas herein set out and any other sales which Applicant may make, and (ii) the validity and reasonableness of Order 174-A entered by this Commission in Docket No. R-138 under the Constitution and statutes of the United States, both in general and as applied to the specific sale herein described; and neither this application nor the sale of gas following the issuance of a Certificate pursuant hereto shall estop, impair, or prejudice the right of Applicant to pursue or assert any such rights or remedies, or be construed or treated as a waiver or admission of the Commission's jurisdiction over Applicant or of the validity or reasonableness of its said Order.

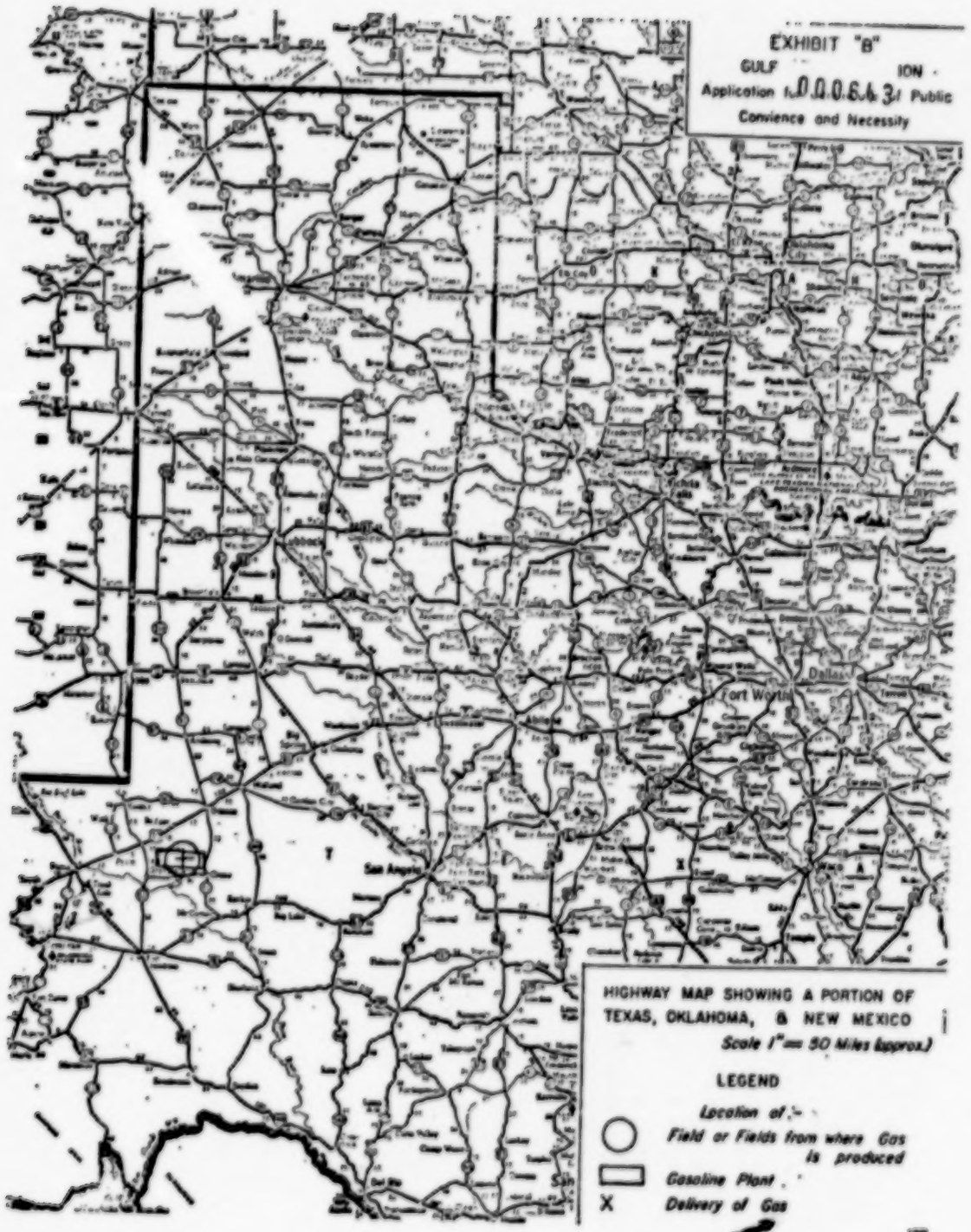
GULF OIL CORPORATION

Original signed by
By M. BAYER
H. M. Bayer, Vice President

[642]

(VERIFICATION OMITTED IN PRINTING)

[643]



[644] UNITED STATES OF AMERICA
FEDERAL POWER COMMISSION

(RECEIVED APRIL 23, 1956)

In the Matters of

Docket No. G-3275
Howard W. Fleet, et al.

Docket Nos. G-4814 thru G-4819, incl.
M. F. Powers

Docket No. G-5191
John A. Barnett

Docket Nos. G-5218, G-5220 and G-5221
Big Chief Drilling Company

Docket Nos. G-5291 and G-5292
Havenstrite Oil Company of Texas

Docket No. G-5659
Shell Oil Company

Docket No. G-5993
Baker and Taylor Drilling Company

Docket No. G-6180
The Superior Oil Company

Docket Nos. G-6319, G-6321 thru G-6324, incl.
Amerada Petroleum Corporation

Docket Nos. G-6342, G-6346, G-6353 and G-6355
Continental Oil Company

Docket No. G-6378
Kerr-McGee Oil Industries, Inc.

Docket No. G-6393
Joseph I. O'Neil, Jr.

Docket Nos. G-6406 and G-6407
Southwestern Exploration Company
(a Co-partnership)

Docket No. G-6429
Bass & Vessels, et al.

Docket No. G-6608
Phillips Drilling Corporation

Docket Nos. G-6619, G-6620, G-6626 thru G-6656, incl., G-6658 thru G-6664, incl., and G-6670
Sun Oil Company

Docket No. G-6825
Cabot Carbon Company

Docket No. 6950
Hanco Oil and Gas Company, Ltd.

Docket No. G-6994
Sue Reeder Turner

Docket Nos. G-7136 thru G-7141, incl., G-7143 thru G-7145, incl., G-7147 thru G-7158, incl.
Gulf Oil Corporation

Docket No. G-7706
Fraley Gas Company

Docket No. G-7734
N. B. Hunt

Docket No. G-7738
Wiley Page

Docket No. G-7755
W. W. Lechner and R. E. Hubbard

Docket No. G-7761
G. B. Cree and H. E. Schwartz

Docket No. G-7762
H. E. Schwartz, G. B. Cree and Southern Production Company, Inc.

Docket No. G-7768
Harold Davidor and R. H. Davidor, d.b.a.
Davidor & Davidor

Docket Nos. G-7769 and G-7770
Late Oil Company

Docket No. G-7811
Orville H. Parker, et al.

Docket No. G-7812
Phil D. Phillips, et al.

Docket No. G-7813
Clayton A. Woofter, et al. Lease, Roy G. Hildreth, et al., and Roy G. Hildreth, Agent

Docket No. G-7815
H. C. Grady, Jr. and J. W. Graham, Jr.

Docket Nos. G-7816 and G-7821
J. D. Caruthers

Docket No. G-7822
Lisbon Exploration Company, Inc.

[645]

Docket No. G-7823
Malco Refineries, Inc.

Docket No. G-7824
Cree Oil, H. E. Schwartz and D. E. Williams

Docket No. G-7825
H. W. Klein

Docket No. G-7839
Charles N. Compton Oil and Gas Co.

Docket No. G-7840
Seward Butch Martin Oil and Gas Co.

Docket No. G-7841
Blanton Oil and Gas Co.

Docket No. G-7842
H. C. Hall Oil and Gas Co.

Docket No. G-7843
Little Rough Oil and Gas Co.

Docket No. G-7844
Ben Compton Oil and Gas Co.

Docket No. G-7851
Louis C. Quin, H. R. Wofford, Jr., and Arthur F. Graf, Jr.

Docket No. G-7852
Goliad Corporation

Docket No. G-8083
Peerless Oil and Gas Company

April 19, 1956

Notice of Applications and Date of Hearing

Take notice that each of the above Applicants has filed an application for a certificate of public convenience and necessity pursuant to Section 7 of the Natural Gas Act, authorizing Applicants to render services as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in their respective applications which are on

file with the Commission and open for public inspection.

Applicants produce and sell natural gas for transportation in interstate commerce for resale, as indicated below:

Docket No. G-	Location of Field	Buyer
3275	Denton Gasoline Plant	El Paso Natural Gas Company
4814 thru 4817, incl., and 4819	Hugoton Field, Kearney County, Kansas	Colorado Interstate Gas Company; Cities Service Gas Company; Kansas-Nebraska Natural Gas Company
4818	Carthage Field, Panola County, Texas	Texas Gas Transmission Corporation
5191	Spraberry Trend Area, Midland and Glasscock Counties, Texas	Texas Gas Products Corporation
5218, 5220, and 5221	Chris Hunt, Hitch Gray, and Stanolind-Wiggins Leases in Keyes Field, Cimarron County, Oklahoma	Colorado Interstate Gas Company
5291 and 5292	Anna Wells and Pembrook Leases in Upton County, Texas	Texas Gas Products Corporation

[646]

5659	Tubb-Blinberry Field, Lea County, New Mexico	El Paso Natural Gas Company
5993	Acreage in Lea County, New Mexico	El Paso Natural Gas Company

Docket No. G-	Location of Field	Buyer
6180	Canyon Largo Unit, Rio Arriba County, New Mexico	El Paso Natural Gas Company
6319	Ignacio Field, La Plata County, Colorado	El Paso Natural Gas Company
6321, 6323 and 6324	Langlie-Mattix Field, Lea County, New Mexico	El Paso Natural Gas Company
6322	Fields in Lea County, New Mexico	El Paso Natural Gas Company
6342, 6346, 6353, and 6355	Eumont-Jalmat, Arrow, Tubb, Blinberry, Monument, McKee, and Langmat Fields Lea County, New Mexico	El Paso Natural Gas Company
6378	Keyes Field, Cimarron County, Oklahoma	Colorado Interstate Gas
6393	Jack Herbert Field, Upton County, Texas	El Paso Natural Gas Company
6406	Hugoton Field, Haskell, Stanton, and Seward Counties, Kansas	Colorado Interstate Gas Company; Northern Natural Gas Company
6407	Greenwood Field, Baca County, Colorado, and Morton County, Kansas	Colorado Interstate Gas Company
6429	North Sun Field, Starr County, Texas	Tennessee Gas Transmission Company
6608	Allison Unit Area, San Juan County, New Mexico, and La Plata and Archuleta Counties, Colorado	El Paso Natural Gas Company

Docket No. G-	Location of Field	Buyer
6619	Levelland Field, Hockley County, Texas	El Paso Natural Gas Company
[647]		
6620, 6640, 6643, 6645, 6648, 6653, 6655 and 6662	Carthage Field, Panola County, Texas	Texas Gas Transmission Corporation; United Gas Pipe Line Company; Texas Eastern Transmission Corporation; Tennessee Gas Transmission Company; Southern Natural Gas Company
6626	Mission Valley Field, Victoria County, Texas	Transcontinental Gas Pipe Line Corporation
6627	Shield Field, Nueces County, Texas	Transcontinental Gas Pipe Line Corporation
6628	La Gloria Field, Jim Wells County, Texas	Transcontinental Gas Pipe Line Corporation
6629	Various Fields in Starr County, Texas	Transcontinental Gas Pipe Line Corporation
6630	Quinto Creek Field, Jim Wells County, Texas	Transcontinental Gas Pipe Line Corporation
6631	N. Government Wells Field, Duval County, Texas	Tennessee Gas Transmission Company
6632	Brayton Field, Nueces County, Texas	Tennessee Gas Transmission Company
6633	Gyp Hill Field, Brooks County, Texas	Tennessee Gas Transmission Company
6634	Placedo Field, Victoria County, Texas	Tennessee Gas Transmission Company

Docket No. G-	Location of Field	Buyer
6635	Chesterville Field, Colorado County, Texas	Tennessee Gas Transmission Company
6636	Seeligson Field, Jim Wells County, Texas	Tennessee Gas Transmission Company
6637	Edinburg Field, Hidalgo County, Texas	Tennessee Gas Transmission Company
6638	Red Fish Bay Field, Nueces County, Texas	United Gas Pipe Line Company

[648]

6639 and 6642	Cabeza Creek Field, Goliad County, Texas	United Gas Pipe Line Company
6641	Blanconia Field, Bee County, Texas	United Gas Pipe Line Company
6644	Hordes Creek Field, Goliad County, Texas	United Gas Pipe Line Company
6646	N. Minoak Field, Bee County, Texas	Texas Eastern Transmission Corporation
6647	Corpus Christi Channel Field, Nueces County, Texas	Tennessee Gas Transmission
6649	Payton-Devonian Field, Pecos County, Texas	El Paso Natural Gas Company
6650	Richard King Field, Nueces County, Texas	Tennessee Gas Transmission
6651	Helen Gohlke Field, Victoria County, Texas	Texas Eastern Transmission Corporation

Docket No. G-	Location of Field	Buyer
6652	Heyser Field, Victoria County, Texas	Tennessee Gas Transmission Company
6654 and 6664	Delhi Field, Richland Parish, Louisiana	Texas Eastern Transmission Corporation
6656 and 6660	Jalco Field, Lea County, New Mexico	El Paso Natural Gas Company
6658	Gwinville Field, Jefferson Davis County, Mississippi	Southern Natural Gas Company
6659	Langmat Field, Lea County, New Mexico	El Paso Natural Gas Company
6661	Purnell-North Pettus Field, Karnes County, Texas	United Gas Pipe Line Company
6663	Eumont Field, Lea County, New Mexico	Permian Basin Pipe Line Company
6670	North Bay City and North Markham Fields, Matagorda County, Texas	Transcontinental Gas Pipe Line Corporation

[649]

6825	Keyes Field, Texas County, Oklahoma	Colorado Interstate Gas Company
6950	San Juan Basin, Rio Arriba County, New Mexico	El Paso Natural Gas Company
6994	Acreage in San Juan County, New Mexico	El Paso Natural Gas Company
7136	Winnsboro Field, Wood County, Texas	Lone Star Gas Company
7137	Woodlawn Field, Harrison County, Texas	Mississippi River Fuel Corporation

Docket No. G-	Location of Field	Buyer
7138	Waskom Field, Harrison and Panola Counties, Texas	Arkansas-Louisiana Gas Company
7139	Lemonville and West Gist Fields, Newton and Jasper Counties, Texas	Texas Eastern Transmission Corporation
7140	New Ulm Field, Austin County, Texas	Tennessee Gas Transmission Company
7141	North Lansing Field, Harrison County, Texas	Arkansas-Louisiana Gas Company
7143	Heyser Field, Calhoun County, Texas	Tennessee Gas Transmission Company
7144	Mustang Island Field, Nueces County, Texas	United Gas Pipe Line Company
7145	Placedo Field, Victoria County, Texas	Tennessee Gas Transmission Company
7147	N. McFaddin Field, Victoria County, Texas	United Gas Pipe Line Company
7148	Harleton (Whelan) Field, Harrison County, Texas	H. L. Hunt
7149	Stowell Field, Chambers County, Texas	Texas Gas Corporation
7150	Keystone, Waddell and McKee Fields, Winkler County, Texas	El Paso Natural Gas Company

[650]

Docket No. G-	Location of Field	Buyer
7151	Jalmat and Blinberry Fields, Lea County, New Mexico	El Paso Natural Gas Company
7152	Carson Field, Gray County, Texas	Phillips Petroleum Company
7153	Sweetie Peck Field, Midland County, Texas	El Paso Natural Gas Company
7154	S. Fullerton Field, Andrews County, Texas	El Paso Natural Gas Company
7155	Denton Field, Lea County, New Mexico	El Paso Natural Gas Company
7156	Waddell, Edwards, Sand Hills, University-Waddell, and Dune Fields, Crane County, Texas	El Paso Natural Gas Company
7157	Jack Herbert (Penn) Field, Upton County, Texas	El Paso Natural Gas Company
7158	Arrowhead, Blinbery, Brunson, Drinkard, Hair, S. Hair, McCormick, Paddock and Penrose-Skelly Fields, Lea County, New Mexico	El Paso Natural Gas Company
7706	Fields in Wayne County, West Virginia	United Fuel Gas Company
7734	Fields in Lea County, New Mexico	El Paso Natural Gas Company

Docket No. G-	Location of Field	Buyer
7738	North Lansing Field, Harrison County, Texas	Louisiana-Nevada Transit Company
7755	North Lansing Field, Harrison County, Texas	H. L. Hunt
7761	East Panhandle Field, Gray County, Texas	Phillips Petroleum Company
7762	West Panhandle Field, Gray County, Texas	Cabot Carbon Company

[651]

7768	North Whiterock Field, Noble County, Oklahoma	Cities Service Gas Company
7769	Langmat Field, Lea County, New Mexico	El Paso Natural Gas Company
7770	Eumont Field, Lea County, New Mexico	El Paso Natural Gas Company; Phillips Petroleum Company
7811	Hugoton Field, Stevens County, Kansas	Northern Natural Gas Company
7812	Washington District, Calhoun County, West Virginia	Godfrey L. Cabot, Inc.
7813	Glenville District, Gilmer County, West Virginia	Equitable Gas Company
7815	East Panhandle Field, Gray County, Texas	Warren Petroleum Company

Docket No. G-	Location of Field	Buyer
7816, 7821, and 7822	Lisbon Field, Lincoln and Claiborne Parishes, Louisiana	Mississippi River Fuel Corporation; Arkansas-Louisiana Gas Company; H. W. Klein
7823	Ignacio Field, La Plata County, Colorado Wasson Field, Yoakum County, Texas	El Paso Natural Gas Company; Shell Oil Company; Coltexo Corporation
7824	West Panhandle Field, Gray County, Texas	Cities Service Gas Company
7825	Lisbon Field, Claiborne and Lincoln Parishes, Louisiana	Arkansas-Louisiana Gas Company
7839 and 7844	Sucker Creek Field, Pike County, Kentucky	Kentucky West Virginia Gas Company
7840	Virgie Field, Pike County, Kentucky	United Fuel Gas Company
7841	Wolfe Creek Field, Martin County, Kentucky	United Fuel Gas Company

[652]

7842	Right Beaver Creek Field, Knott County, Kentucky	Kentucky West Virginia Gas Company
7843	Johns Creek Field, Floyd County, Kentucky	Kentucky West Virginia Gas Company
7851	South Porter Field, Karnes County, Texas	United Gas Pipe Line Company
7852	Live Oak County, Texas	Transcontinental Gas Pipe Line Corporation
8083	Langmat Pool, Lea County, New Mexico	El Paso Natural Gas Company

These matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act, and the Commission's Rules of Practice and Procedure, a hearing will be held on May 21, 1956, at 9:30 a.m. (EDST), in a hearing room of the Federal Power Commission, 441 G Street, N.W., Washington, D. C., concerning the matters involved in and the issues presented by such applications: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of Section 1.30 (c)(1) or (c)(2) of the Commission's Rules of Practice and Procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the Rules of Practice and Procedure (18 CFR 1.8 or 1.10) on or before May 7, 1956. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

/s/ LEON M. FUQUAY
Secretary

[653] UNITED STATES OF AMERICA
FEDERAL POWER COMMISSION

Before Jerome K. Kuykendall, Chairman; Claude L. Draper, Commissioners: Seaborn I. Digby, Frederick Stueck and William R. Connole.

IN THE MATTERS OF

Docket No. G-3275
Howard W. Fleet, et al.

Docket Nos. G-4814 thru G-4819, incl.
M. F. Powers

Docket No. G-5191
John A. Barnett

Docket Nos. G-5218, G-5200 and G-5221
Big Chief Drilling Company

Docket Nos. G-5291 and G-5292
Havenstrite Oil Company of Texas

Docket No. G-5659
Shell Oil Company

Docket No. G-5993
Baker and Taylor Drilling Company

Docket Nos. G-6319, G-6321 thru G-6324, incl.

Docket No. G-6378
Kerr-McGee Oil Industries, Inc.

Docket No. G-6393
Joseph I. O'Neil, Jr.

Docket Nos. G-6406 and G-6407
Southwestern Exploration Company
(a Co-partnership)

Docket No. G-6429
Bass & Vessels, et al.

Docket No. G-6608
Phillips Drilling Corporation

Docket Nos. G-6619, G-6620, G-6626 thru G-6640, incl., G-6642 thru G-6656, incl., G-6658 thru G-6664, incl., and G-6670
Sun Oil Company

Docket No. G-6825
Cabot Carbon Company

Docket No. 6950
Hanco Oil and Gas Company, Ltd.

Docket No. G-6994
Sue Reeder Turner

Docket Nos. G-7136 thru G-7141, incl., G-7143 thru G-7145, incl., G-7147 thru G-7158, incl.
Gulf Oil Corporation

Docket No. G-7706
Fraley Gas Company

Docket No. G-7734
N. B. Hunt

Docket No. G-7738
Wiley Page

Docket No. G-7755
W. W. Lechner and R. E. Hubbard

Docket No. G-7761
G. B. Cree and H. E. Schwartz

Docket No. G-7762
H. E. Schwartz, G. B. Cree and Southern Production Company, Inc.

Docket No. G-7768
Harold Davidor and R. H. Davidor, d.b.a. Davidor & Davidor

Docket Nos. G-7769 and G-7770
Late Oil Company

Docket No. G-7811
Orville H. Parker, et al.

Docket No. G-7812
Phil D. Phillips, et al.

[654] Docket No. G-7813
Clayton A. Woofter, et al. Lease, Roy G. Hildreth, et al., and Roy G. Hildreth, Agent

Docket No. G-7815
H. C. Grady, Jr., and J. R. Graham, Jr.

Docket Nos. G-7816 and G-7821
J. D. Caruthers

Docket No. G-7822
Lisbon Exploration Company, Inc.

Docket No. G-7823
Malco Refineries, Inc.

Docket No. G-7824
Cree Oil, H. E. Schwartz and D. E. Williams

Docket No. G-7825
H. W. Klein

Docket No. G-7839
Charles N. Compton Oil and Gas Co.

Docket No. G-7840
Seward Butch Martin Oil and Gas Co.

Docket No. G-7841
Blanton Oil and Gas Co.

Docket No. G-7842
H. C. Hall Oil and Gas Co.

Docket No. G-7843
Little Rough Oil and Gas Co.

Docket No. G-7844
Ben Compton Oil and Gas Co.

Docket No. G-7851
Louis C. Quin, H. R. Wofford, Jr., and Arthur F. Graf, Jr.

Docket No. G-7852
Goliad Corporation

Docket No. G-8083
Peerless Oil and Gas Company

Findings and Order Issuing Certificates of Public Convenience and Necessity

(Issued May 28, 1956)

Each of the above Applicants has filed an application for a certificate of public convenience and necessity pursuant to Section 7 of the Natural Gas Act, authorizing Applicants to render services as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in their respective applications which are on file with the Commission and open for public inspection.

Applicants produce and sell natural gas for transportation in interstate commerce for resale, as indicated below. Applicants are hereinafter referred to as Applicant.

Docket No. G-	Location of Field	Buyer
3275	Denton Gasoline Plant	El Paso Natural Gas Company
4814 thru 4817, incl., and 4819	Hugoton Field, Kearney County, Kansas	Colorado Interstate Gas Company; Cities Service Gas Company; Kansas-Nebraska Natural Gas Company
4818	Carthage Field, Panola County, Texas	Texas Gas Transmission Corporation
[655]		
5191	Spraberry Trend Area, Midland and Glasscock Counties, Texas	Texas Gas Products Corporation
5218, 5220, and 5221	Chris Hunt, Hitch Gray, and Stanolind-Wiggins Leases in Keyes Field, Cimarron County, Oklahoma	Colorado Interstate Gas Company
5291 and 5292	Anna Wells and Pembrook Leases in Upton County, Texas	Texas Gas Products Corporation
5659	Tubb-Blinberry Field, Lea County, New Mexico	El Paso Natural Gas Company
5993	Acreage in Lea County, New Mexico	El Paso Natural Gas Company

Docket No. G-	Location of Field	Buyer
6319	Ignacio Field, La Plata County, Colorado	El Paso Natural Gas Company
6321, 6323 and 6324	Langlie-Mattix Field, Lea County, New Mexico	El Paso Natural Gas Company
6322	Fields in Lea County, New Mexico	El Paso Natural Gas Company
6378	Keyes Field, Cimarron County, Oklahoma	Colorado Interstate Gas
6393	Jack Herbert Field, Upton County, Texas	El Paso Natural Gas Company
6406	Hugoton Field, Haskell, Stanton, and Seward Counties, Kansas	Colorado Interstate Gas Company; Northern Natural Gas Company
6407	Greenwood Field, Baca County, Colorado, and Morton County, Kansas	Colorado Interstate Gas Company

[656]

6429	North Sun Field, Starr County, Texas	Tennessee Gas Transmission Company
6608	Allison Unit Area, San Juan County, New Mexico, and La Plata and Archuleta Counties, Colorado	El Paso Natural Gas Company

Docket No. G-	Location of Field	Buyer
6619	Levelland Field, Hockley County, Texas	El Paso Natural Gas Company
6620, 6640, 6643, 6645, 6648, 6653, 6655 and 6662	Carthage Field, Panola County, Texas	Texas Gas Transmission Corporation; United Gas Pipe Line Company; Texas Eastern Transmission Corporation; Tennessee Gas Transmission Company; Southern Natural Gas Company
6626	Mission Valley Field, Victoria County, Texas	Transcontinental Gas Pipe Line Corporation
6627	Shield Field, Nueces County, Texas	Transcontinental Gas Pipe Line Corporation
6628	La Gloria Field, Jim Wells County, Texas	Transcontinental Gas Pipe Line Corporation
6629	Various Fields in Starr County, Texas	Transcontinental Gas Pipe Line Corporation
6630	Quinto Creek Field, Jim Wells County, Texas	Transcontinental Gas Pipe Line Corporation
6631	N. Government Wells Field, Duval County, Texas	Tennessee Gas Transmission Company
6632	Brayton Field, Nueces County, Texas	Tennessee Gas Transmission Company
6633	Gyp Hill Field, Brooks County, Texas	Tennessee Gas Transmission Company
6634	Placedo Field, Victoria County, Texas	Tennessee Gas Transmission Company

Docket No. G-	Location of Field	Buyer
6635	Chesterville Field, Colorado County, Texas	Tennessee Gas Transmission Company
[657]		
6636	Seeligson Field, Jim Wells County, Texas	Tennessee Gas Transmission Company
6637	Edinburg Field, Hidalgo County, Texas	Tennessee Gas Transmission Company
6638	Red Fish Bay Field, Nueces County, Texas	United Gas Pipe Line Company
6639 and 6642	Cabeza Creek Field, Goliad County, Texas	United Gas Pipe Line Company
6644	Hordes Creek Field, Goliad County, Texas	United Gas Pipe Line Company
6646	N. Minoak Field, Bee County, Texas	Texas Eastern Transmission Corporation
6647	Corpus Christi Channel Field, Nueces County, Texas	Tennessee Gas Transmission Company
6649	Payton-Devonian Field, Pecos County, Texas	El Paso Natural Gas Company
6650	Richard King Field, Nueces County, Texas	Tennessee Gas Transmission Company
6651	Helen Gohlke Field, Victoria County, Texas	Texas Eastern Transmission Corporation
6652	Heyser Field, Victoria County, Texas	Tennessee Gas Transmission Company

Docket No. G-	Location of Field	Buyer
6654 and 6664	Delhi Field, Richland Parish, Louisiana	Texas Eastern Transmission Corporation
6656 and 6660	Jalco Field, Lea County, New Mexico	El Paso Natural Gas Company
6658	Gwinville Field, Jefferson Davis County, Mississippi	Southern Natural Gas Company
6659	Langmat Field, Lea County, New Mexico	El Paso Natural Gas Company
[658]		
6661	Burnell-North Pettus Field, Karnes County, Texas	United Gas Pipe Line Company
6663	Eumont Field, Lea County, New Mexico	Permian Basin Pipe Line Company
6670	North Bay City and North Markham Fields, Matagorda County, Texas	Transcontinental Gas Pipe Line Corporation
6825	Keyes Field, Texas County, Oklahoma	Colorado Interstate Gas Company
6950	San Juan Basin, Rio Arriba County, New Mexico	El Paso Natural Gas Company
6994	Acreage in San Juan County, New Mexico	El Paso Natural Gas Company
7136	Winnsboro Field, Wood County, Texas	Lone Star Gas Company
7137	Woodlawn Field, Harrison County, Texas	Mississippi River Fuel Corporation
7138	Waskom Field, Harrison and Panola Counties, Texas	Arkansas-Louisiana Gas Company

Docket No. G-	Location of Field	Buyer
7139	Lemonville and West Gist Fields, Newton and Jasper Counties, Texas	Texas Eastern Transmission Corporation
7140	New Ulm Field, Austin County, Texas	Tennessee Gas Transmission Company
7141	North Lansing Field, Harrison County, Texas	Arkansas-Louisiana Gas Company
7143	Heyser Field, Calhoun County, Texas	Tennessee Gas Transmission Company
7144	Mustang Island Field, Nueces County, Texas	United Gas Pipe Line Company
7145	Placedo Field, Victoria County, Texas	Tennessee Gas Transmission Company
[659]		
7147	N. McFaddin Field, Victoria County, Texas	United Gas Pipe Line Company
7148	Harleton (Whelan) Field, Harrison County, Texas	H. L. Hunt
7149	Stowell Field, Chambers County, Texas	Texas Gas Corporation
7150	Keystone, Waddell and McKee Fields, Winkler County, Texas	El Paso Natural Gas Company
7151	Jalmat and Blinberry Fields, Lea County, New Mexico	El Paso Natural Gas Company

Docket No. G-	Location of Field	Buyer
7152	Carson Field, Gray County, Texas	Phillips Petroleum Company
7153	Sweetie Peck Field, Midland County, Texas	El Paso Natural Gas Company
7154	S. Fullerton Field, Andrews County, Texas	El Paso Natural Gas Company
7155	Denton Field, Lea County, New Mexico	El Paso Natural Gas Company
7156	Waddell, Edwards, Sand Hills, University-Waddell, and Dune Fields, Crane County, Texas	El Paso Natural Gas Company
7157	Jack Herbert (Penn) Field, Upton County, Texas	El Paso Natural Gas Company
7158	Arrowhead, Blinberry, Brunson, Drinkard, Hair, S. Hair, McCormick, Paddock and Penrose-Skelly Fields, Lea County, New Mexico	El Paso Natural Gas Company
7706	Fields in Wayne County, West Virginia	United Fuel Gas Company
7734	Fields in Lea County, New Mexico	El Paso Natural Gas Company
7738	North Lansing Field, Harrison County, Texas	Louisiana-Nevada Transit Company
[660]		
7755	North Lansing Field, Harrison County, Texas	H. L. Hunt

Docket No. G-	Location of Field	Buyer
7761	East Panhandle Field, Gray County, Texas	Phillips Petroleum Company
7762	West Panhandle Field, Gray County, Texas	Cabot Carbon Company
7768	North Whiterock Field, Noble County, Oklahoma	Cities Service Gas Company
7769	Langmat Field, Lea County, New Mexico	El Paso Natural Gas Company
7770	Eumont Field, Lea County, New Mexico	El Paso Natural Gas Company; Phillips Petroleum Company
7811	Hugoton Field, Stevens County, Kansas	Northern Natural Gas Company
7812	Washington District, Calhoun County, West Virginia	Godfrey L. Cabot, Inc.
7813	Glenville District, Gilmer County, West Virginia	Equitable Gas Company
7815	East Panhandle Field, Gray County, Texas	Warren Petroleum Company
7816, 7821, and 7822	Lisbon Field, Lincoln Claiborne Parishes, Louisiana	Mississippi River Fuel Corporation; Arkansas-Louisiana Gas Company; H. W. Klein
7823	Ignacio Field, La Plata County, Colorado Wasson Field, Yoakum County, Texas	El Paso Natural Gas Company; Shell Oil Company; Coltexo Corporation

Docket No. G-	Location of Field	Buyer
7824	West Panhandle Field, Gray County, Texas	Cities Service Gas Company
7825	Lisbon Field, Claiborne and Lincoln Parishes, Louisiana	Arkansas-Louisiana Gas Company
7839 and 7844	Sucker Creek Field, Pike County, Kentucky	Kentucky West Virginia Gas Company
[661]		
7840	Virgie Field, Pike County, Kentucky	United Fuel Gas Company
7841	Wolfe Creek Field, Martin County, Kentucky	United Fuel Gas Company
7842	Right Beaver Creek Field, Knott County, Kentucky	Kentucky West Virginia Gas Company
7843	Johns Creek Field, Floyd County, Kentucky	Kentucky West Virginia Gas Company
7851	South Porter Field, Karnes County, Texas	United Gas Pipe Line Company
7852	Live Oak County, Texas	Transcontinental Gas Pipe Line Corporation
8083	Langmat Pool, Lea County, New Mexico	El Paso Natural Gas Company

Pursuant to due notice, a public hearing was held in Washington, D.C., on May 21, 1956, respecting the matters involved in and the issues presented by the application. No petition to intervene or protest to the granting of the application has been received. Staff counsel moved orally at the hearing that the intermediate de-

cision procedure be omitted and the Commission render a decision herein pursuant to Section 1.30 (c) (1) of the Commission's Rules of Practice and Procedure.

The Commission *finds:*

(1) Applicant, an independent producer of natural gas, is engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption, subject to the jurisdiction of the Commission, and is, therefore, a "natural-gas company" within the meaning of the Natural Gas Act.

(2) The sale of natural gas hereinbefore described, as more fully described in the application, is made in interstate commerce, subject to the jurisdiction of the Commission, and such sale by Applicant, together with the operation of any facilities subject to the jurisdiction of the Commission necessary therefor, is subject to the requirements of subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act, and the requirements, rules and regulations of the Commission thereunder.

[662] (4) The sale of natural gas by Applicant, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, is required by the public convenience and necessity, and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) A request during the public hearing by Staff Counsel for omission of the intermediate decision procedure under Section 1.30 (c) of the Commission's Rules of Practice and Procedure, was unopposed by any party of record and, not having been denied by the Commission, is granted pursuant to Section 1.30 (c) (1) of said Rules.

The Commission *orders:*

(A) A certificate of public convenience and necessity be and is hereby issued, upon the terms and conditions of this order, authorizing the sale by Applicant of natural gas in interstate commerce for resale, together with the operation of any facilities, subject to the jurisdiction of the Commission, used for the sale of natural gas in interstate commerce, as hereinbefore described and as more fully described in the application and exhibits in this proceeding.

(B) The certificate issued herein shall be deemed accepted and of full force and effect, unless refused in writing and under oath by Applicant within 30 days from issuance of this order.

(C) The certificate is not transferable and shall be effective only so long as Applicant continues the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act, and the applicable rules, regulations and orders of the Commission.

(D) The grant of the certificate herein shall not be construed as a waiver of the requirements of Section 4 of the Natural Gas Act, or of Section 154 of the Commission's Rules and Regulations thereunder requiring the filing of rate schedules for the service herein authorized, and is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceeding now pending [663] or hereafter instituted by or against the Applicant. Further, our action in this proceeding shall not foreclose nor prejudice any future proceedings or objection relating to the operation of any price or related provision in the gas purchase contracts herein involved.

By the Commission. Commissioner Digby concurring, subject to the statement attached.

/s/ LEON M. FUQUAY
Leon M. Fuquay
Secretary

[664] DIGBY, Commissioner, *concurring:*

I concur in the order granting a certificate of public convenience and necessity to sell natural gas. I object to any reference in the order concerning the issuance of a certificate of public convenience and necessity for the facilities of the independent producer or gatherer of gas.

A certificate of public convenience and necessity is neither required nor properly issued for construction

and operation of facilities of a producer or gatherer. The action of a majority of this Commission issuing a certificate for facilities is improper for it represents an assertion of power denied to us by Congress.

We have recognized the absence of power over facilities when, in Order No. 174 and Order No. 174-A, we failed to provide any procedure whereby application could be made for a certificate authorizing their construction and operation. We did promulgate procedural rules to enable filing of applications for certificates authorizing a sale or transportation. There was not even a suggestion that at some later time we would authorize or require authorization for construction and operation of facilities.

The action heretofore taken, insofar as it made no provision with respect to facilities, was wholly consistent with the declarations of the Supreme Court in *Federal Power Commission* v. *Panhandle Eastern Pipe Line Company,* 337 U.S. 498, 505; *Colorado Interstate Gas Co.* v. *Federal Power Commission,* 324 U.S. 581, 598; *Interstate Natural Gas Company* v. *Federal Power Commission,* 331 U.S. 682, 690-691, and *Phillips Petroleum Company* v. *State of Wisconsin,* 74 Sup. Ct. 794, 797-798. The language of the Court in these cases is clear and unambiguous. In *Federal Power Commission* v. *Panhandle Eastern Pipe Line Company, supra,* the Court stated that the "natural and clear meaning" of production or gathering contained in Section 1(b) of the Act encompassed "the producing properties and gathering facilities of a natural-gas company." In *Colorado Interstate Gas Co.* v. *Federal Power Commission, supra,* the Court stated that the production or gathering exemption applies to the "physical activities,

facilities and properties used in the production and gathering of natural gas." In *Interstate Natural Gas Company* v. *Federal Power Commission, supra,* the Court stated that effect must be given to the exemption of producing and gathering, and indicated clearly that facilities, properties and activities of a producer and gatherer were exempted. The Court, in *Phillips Petroleum Company* v. *State of Wisconsin, supra,* held only that a sale in interstate commerce for resale was not within the exemption of Section 1(b). The discussion with respect to facilities and the recitation of the above-cited cases represents clear recognition of the intended scope and effect of the exemption as regards facilities.

The issue to be resolved is whether the Natural Gas Act requires that a certificate of public convenience and necessity issue for construction and operation of the facilities necessary to effect a sale by a producer or gatherer in interstate commerce for resale. The issue is not whether a sale of gas in interstate commerce for resale can be made without facilities. It cannot be doubted that facilities necessary to effect a sale of natural gas in interstate commerce are facilities used in interstate commerce. Recognition of this fact cannot, however, create power in this Commission to issue, much less to require, certificates authorizing construction and operation of such facilities.

[539]

Residue Gas Purchase Agreement

THIS AGREEMENT, made and entered into as of the 26th day of January, 1951, by and between GULF OIL CORPORATION, a Pennsylvania corporation, hereinafter referred to as "Seller", and EL PASO NATURAL GAS

COMPANY, a Delaware corporation, hereinafter referred to as "Buyer".

WITNESSETH:

WHEREAS, Seller owns and operates a natural gasoline extraction plant, located in Section 25, Block B-26, Public School Lands, Crane County, Texas, processing casinghead gas produced in the area; and

WHEREAS, Seller has available at the plant and expects to continue to have a quantity of surplus residue gas not being sold to others; and

WHEREAS, Buyer desires to purchase such surplus residue gas.

NOW, THEREFORE, in consideration of the covenants and agreements hereinafter set forth, Seller and Buyer do hereby contract, covenant and agree with each other as follows, to wit:

[540]

ARTICLE I

DEFINITIONS

As used in this agreement, the following terms shall have the meanings herein stated:

a. Gasoline Plant or *Plant* shall mean that natural gasoline extraction plant, together with the necessary related facilities for compression and treatment of gas, located in Section 25, Block B-26, Public School Lands, Crane County, Texas, owned and operated by Seller, as such plant and related facilities may exist from time to time, including any and all additions and alterations thereto.

b. Casinghead Gas shall mean the gas issuing from oil wells, whether produced from the same strata from

which oil is produced or from any other strata, or whether recovered as a result of gas injection, and gas vaporized from oil after production.

c. Residue Gas shall mean the gas which remains after casinghead gas has been processed in the Gasoline Plant, less the varying amounts of gas required in or consumed in the operation of the Plant.

d. Surplus Residue Gas shall mean the residue gas in excess of the varying quantities required (1) for the operation and development of Seller's properties in the vicinity of said Plant, including but not by way of limitation residue gas for gas injection purposes; (2) to meet its obligations to its lessors under the terms of its oil, gas and mineral [541] leases in the area in which the Plant is located; (3) to meet its obligations under the terms of its casinghead gas purchase contracts relating to the Plant, including but not by way of limitation residue gas for gas injection purposes; (4) to supply fuel for the drilling of wells in the area served by said Plant, although located on leases not owned by Seller nor under casinghead gas purchase contracts to Seller; (5) for fuel in the heating and maintenance of Seller's facilities, including the Plant and camp and any additions and alterations thereto; and (6) to meet Seller's obligations under that certain contract between Seller and Cabot Carbon Company, dated August 18, 1949, and any extension or renewal thereof, by virtue of which Seller has agreed to sell to Cabot Carbon Company an average quantity of Twenty Million (20,000,000) cubic feet* of gas per day.

---

* Pressure base sixteen and four-tenths (16.4) pounds per square inch absolute.

e. Day shall mean the period of 24 consecutive hours beginning at 7:00 A.M. on one calendar day and ending at 7:00 A.M. on the following calendar day.

f. Month shall mean a period commencing at 7:00 A.M. on the first day of a calendar month and ending at 7:00 A.M. on the first day of the following calendar month.

g. Year, except where expressly stated otherwise, shall mean a period of 365 consecutive days beginning at 7:00 A.M. on the day and year first above written or on any anniversary thereof, provided that any such year which contains a date of February 29 shall consist of 366 consecutive days.

[542] *h. Contract Volume* shall mean seven million (7,000,000) cubic feet of surplus residue gas per day from the Gasoline Plant, unless and until the contract volume is changed under the provisions of this agreement. In case the term "contract volume" is used in relation to any period greater than a day, the number of cubic feet of gas constituting the contract volume as above defined shall be multiplied by the number of days included in such period.

ARTICLE II

Dedication

Seller hereby dedicates to the performance of its obligations under this agreement and for the term hereof all of Seller's surplus residue gas as herein defined.

ARTICLE III

Quantity

Section 1. Until such time as Seller shall notify Buyer in writing that Seller is in position to, and does by such notice, effectively dedicate to the performance of this agreement not less than seven twenty-sevenths (7/27) of the total quantity of residue gas available for sale from the Plant, Buyer shall purchase a portion of the surplus residue gas from the Plant but shall be under no obligation to purchase the full contract volume of surplus residue gas hereunder. The amount of surplus residue gas which Buyer shall purchase and receive and Seller will sell and deliver hereunder will vary from time to time and will depend upon operating conditions [543] of Buyer, upon the quantity of gas being purchased by Buyer from other sources, Buyer's marketing requirements and other conditions pertinent to Buyer's operations.

Section 2. Effective thirty (30) days after receipt by Buyer from Seller of the notice provided for in Section 1 of this Article III, the quantity of surplus residue gas to be sold and delivered by Seller and purchased and received by Buyer hereunder shall be governed by the provisions of Sections 3 to 8, inclusive, of this Article III.

Section 3. Subject to the provisions of this agreement, Seller agrees to sell and deliver and Buyer agrees to purchase and receive or to pay for whether or not received, commencing May 1, 1951 (delay due to force majeure excepted), the contract volume from time to time in effect hereunder, averaged annually, during such annual periods as Seller has such volume of sur-

plus residue gas available for sale. Seller shall not be required to deliver hereunder in any one day a volume of gas in excess of one and one-tenth (1.1) times the contract volume then in effect.

It is understood that Buyer may find it necessary to adjust its purchases of gas hereunder from time to time during each year to meet the fluctuating demands of Buyer's markets, but Buyer agrees to take and Seller agrees to deliver gas hereunder as nearly as practicable at uniform hourly and daily rates of flow. The quantity of gas purchased by Buyer during the preceding twelve (12) months period, or lesser period in the case of the first such determination, shall be [544] determined on July 1 of each year, and if such quantity is found to be less than the contract volume in effect during the preceding twelve (12) months period, then the difference between the total quantity of gas purchased and received during said period and the total contract volume in effect during said period shall be regarded as the "deficient volume" or as "deficient gas". If on any July 1 it shall be determined that a deficient volume of gas exists, then Buyer shall have the right during the following twelve (12) months period ending as of 7:00 A.M. on the next July 1, as and if surplus residue gas is available during said twelve (12) months period, to purchase and receive over and above the contract volume then in effect a volume of surplus residue gas not greater than the deficient volume. Buyer shall pay for deficient gas so taken at the weighted average price paid to Seller hereunder for gas taken during the twelve (12) months period such deficiency occurred. Within thirty (30) days after the end of the aforesaid twelve (12) months

period, Buyer shall pay Seller for all such deficient gas not so made up and paid for during the twelve (12) months period, at the weighted average price paid to Seller hereunder for gas taken during the twelve (12) months period such deficiency occurred.

In determining the amount which Buyer is obligated to pay Seller for such deficient gas, there shall be credited against the price per one thousand (1000) cubic feet which Buyer would otherwise be obligated to pay hereunder the price received by Seller for any such gas not taken by Buyer which Seller disposes of to any other purchaser, up to but not in excess of the price per one thousand (1000) cubic feet in effect under [545] this agreement; provided that any additional expense incurred by Seller in the sale of such gas for treating, compression and delivery, which is in excess of the normal expense in the sale of gas to Buyer, shall be deducted from the price received from such other purchaser before crediting the amount thereof against the price which Buyer would otherwise be obligated to pay hereunder.

Section 4. Any volume of surplus residue gas from said Gasoline Plant, which may from time to time be taken by Buyer from Seller in excess of the contract volume at the time in effect, shall be subject to all of the terms and provisions of this agreement, and except for gas taken to make up deficiencies as provided in Section 3 above shall be paid for at the price then applicable.

Section 5. In the event that on any day the deliveries of surplus residue gas by Seller hereunder are, by reason of non-availability of gas or causes within the con-

trol of Seller or force majeure intervention, less than the volume which Buyer is otherwise entitled to receive hereunder on such day, then for purposes of determining the average daily volume of gas taken by Buyer hereunder during the twelve (12) months period in which such day occurs, there shall be taken, in lieu of the volume of gas (if any) actually delivered to Buyer during such day, a volume equal to one and one-tenth (1.1) times the contract volume at the time in effect hereunder, or the quantity Buyer is ready and willing to take, whichever quantity is the lesser.

Section 6. If, at any time or times during the term of this agreement, Seller shall have or expect to have available at the Plant an average daily volume of surplus residue gas in [546] excess of the contract volume then in effect, Seller agrees that it will notify Buyer of that fact, specifying the amount of such additional volume of gas, the time when the same will be available for delivery, and the period during which Seller expects such additional volume to be available. Buyer agrees that it will purchase from Seller such additional volume of gas to the extent that Buyer has a market therefor and has facilities (exclusive of necessary stand-by equipment) installed for receiving, transporting and marketing such gas, the purchase thereof by Buyer to commence not later than sixty (60) days after the receipt by Buyer of such notice from Seller, unless a later date is specified in such notice for the commencement of deliveries of such additional volumes; and upon such commencement date, the contract volume previously in effect hereunder shall be increased by an amount equal to the additional volume

of gas tendered by Seller which Buyer is able to accept as aforesaid.

If Seller shall so notify Buyer of the availability or prospective availability of additional volumes of surplus residue gas from the Plant as in this Section 6 provided, and if Buyer at that time does not have a market for such additional volumes or does not have facilities installed to enable it to receive, transport and market the same, then Buyer shall have the right to elect, by notice served upon Seller within sixty (60) days after the receipt by Buyer of said notice from Seller, to purchase all or any part of such additional volume of gas for which Buyer does not then have a market or available facilities. If Buyer makes such election, it will promptly upon service of said notice to Seller proceed with all reasonable dispatch, if facilities [547] are needed, to acquire, construct, install or otherwise provide for the facilities required to enable Buyer to receive, transport and market the additional volume of gas so elected to be purchased by it, or if a market is needed, to acquire a market for said volume of gas, and shall commence taking such additional volume from Seller as soon as said facilities are completed or said market is obtained, as the case may be, but in no event later than one (1) year after the date of Buyer's said notice. Upon the commencement of deliveries of such additional volume of gas, or the expiration of one (1) year from the giving of said notice, whichever is the earlier date, the contract volume previously in effect hereunder shall be increased by the amount of such additional volume of gas which Buyer shall have elected to purchase as aforesaid, up to but not in excess

of the additional volume tendered in Seller's notice to Buyer as to the availability of such additional gas.

Section 7. If, at any time or times during the term of this agreement, Seller shall have additional volumes of surplus residue gas available for sale from the Plant, and upon tender of such gas to Buyer, Buyer does not have a market for such gas or does not have the necessary facilities installed to receive, transport and market such gas, and does not elect as hereinabove provided to install said facilities or obtain a market to enable it to purchase and receive said additional volume of gas, then Seller shall be free to sell to others all or any part of such additional volume which Buyer is not obligated hereunder to purchase or does not elect to purchase as hereinbefore provided, [548] but all such sales to others shall be subject and subservient to the rights of Buyer under this agreement.

Section 8. If at any time the average daily deliveries of surplus residue gas by Seller to Buyer from the Plant shall be reduced by as much as ten percent (10%) below the contract volume at the time in effect hereunder for a period of five (5) months duration, then Buyer at its option shall have the right to serve notice on Seller reducing the contract volume at the time in effect hereunder by such amount as Buyer shall specify in said notice, up to but not exceeding such deficiency in the aggregate average daily deliveries to Buyer from said Plant during such period; and Buyer shall have a like right on each successive occasion that the average daily deliveries of surplus residue gas by Seller to Buyer from the Plant are reduced by as much as ten percent (10%) below the contract volume at the

time in effect hereunder for a period of five (5) months duration.

ARTICLE IV

Delivery Point and Pressure

Section 1. The point of delivery for all gas sold and purchased hereunder shall be at the inlet of the meter station to be installed and operated by Buyer near the property line on the discharge side of the Plant. Title to all gas purchased and received hereunder shall pass from Seller to Buyer at the point of delivery.

Section 2. All gas deliverable hereunder at said delivery point shall be delivered at the pressure necessary [549] to enable said gas to enter Buyer's pipe line system, provided that Seller shall never be required to deliver gas at a pressure greater than six hundred and twenty-five pounds (625#) per square inch gauge.

ARTICLE V

Quality

Section 1. All gas delivered by Seller under the terms of this agreement shall conform to the following specifications:

a. Oxygen: The gas shall not at any time have an oxygen content in excess of two-tenths (0.2) of one percent (1%) by volume, and Seller shall make every reasonable effort to keep the gas free of oxygen.

b. Liquids: The gas shall be free from hydrocarbons in liquid form and shall be dehydrated to the extent that it will contain not more than nine pounds (9#) of water per one million (1,000,000) cubic feet of gas.

c. Hydrogen Sulphide: The gas shall not contain more than twenty-five hundredths (25/100) of one (1) grain of hydrogen sulphide per one hundred (100) cubic feet.

d. Organic Sulphur: The gas shall not contain more than five (5) grains of organic sulphur (mercaptans) per one hundred (100) cubic feet.

e. Carbon Dioxide: The gas shall not have a carbon dioxide content in excess of one percent (1%) by volume.

[550] *f. Dust, Gums, etc.:* The gas shall be commercially free of dust, gums and other solid matter.

g. Heating Value: From the date of commencement of deliveries of gas hereunder until January 1, 1956, the total gross heating value of the gas deliverable hereunder, to be paid for at the rates specified in Article IX hereof, shall not be less than one thousand and fifty (1050) British Thermal Units per cubic foot. If the total gross heating value of the gas delivered in any month prior to January 1, 1956, falls below one thousand and fifty (1050) British Thermal Units per cubic foot, then the price payable by Buyer for such gas shall be reduced by an amount determined by multiplying the sum which would otherwise be payable hereunder for such gas by a fraction, the numerator of which shall be the deficiency in total British Thermal Units per cubic foot below one thousand and fifty (1050) and the denominator of which shall be one thousand and fifty (1050). From and after January 1, 1956, the total gross heating value of the gas deliverable hereunder, to be paid for at the rates specified in Article IX hereof,

shall not be less than one thousand (1000) British Thermal Units per cubic foot.

Section 2. Within the limits of the minimum heating value specifications set forth above, Seller shall have the right before delivery of gas to Buyer to remove from the gas delivered hereunder any constituent thereof other than methane, and shall have the right to remove such [551] methane as is necessarily removed from the gas in the process of removing other constituents.

Section 3. Notwithstanding any other provision hereof, if the total gross heating value of the gas delivered hereunder falls below one thousand (1000) British Thermal Units per cubic foot, Buyer shall have the right to refuse to accept further deliveries hereunder so long as the total gross heating value of the gas remains below one thousand (1000) British Thermal Units per cubic foot. Buyer shall also have the right to refuse to accept any gas which at any time does not meet any of the other specifications set forth in this Article V.

ARTICLE VI

Metering

Section 1. Buyer, at its sole cost and expense, shall install and maintain at the point of delivery hereunder a standard type orifice meter or meters for measuring the volume of all gas purchased by Buyer from the Gasoline Plant, and Buyer shall cause said meters to be read each day. The meters and other facilities so installed at the point of delivery shall be constructed and installed in accordance with the specifications pre-

scribed by Report No. 2 of the Gas Measurement Committee of the American Gas Association dated May 6, 1935, and appendix thereto.

Section 2. Said meters and all meter readings and meter charts shall be accessible at all reasonable times [552] to inspection and examination by Seller, but the reading, calibration and adjustment of Buyer's meter and the changing of charts shall be done by Buyer.

Section 3. Each such meter shall be calibrated at least once each thirty (30) days by and at the expense of Buyer, but in the presence of Seller's representative. Buyer shall give Seller notice of each such calibration test in sufficient time to enable Seller to have its representative present. If upon any such test the measuring equipment is found to be no more than two percent (2%) erroneous, previous readings of such equipment shall be considered correct in computing the deliveries of gas hereunder, but such equipment shall be adjusted at once to read accurately. If upon any test the measuring equipment shall be found to be inaccurate in the aggregate by an amount exceeding two percent (2%) at a reading corresponding to the average rate of flow for the period since the last preceding test, then any previous readings of such equipment shall be corrected to zero error for any period which is known definitely or agreed upon, but in case the period is not known definitely or agreed upon, then for a period extending back one-half (½) of the time elapsed since the date of the last test. If for any reason any meter is out of service or out of repair, so that the volume of gas purchased cannot be ascertained or computed from the reading thereof, the volume of gas purchased during

the period such meter is out of service or out of repair [553] shall be estimated and agreed upon by the parties hereto on the basis of the best data available, using the first of the following methods which is feasible:

a. By using the registration of Seller's check meter, if installed and accurately registering;

b. By correcting the error in Buyer's meter, if the percentage of error is ascertainable by calibration test or mathematical calculation;

c. By estimating the volume of delivery, by using as a basis the volumes delivered during preceding periods under similar conditions when the meter was registering accurately.

Section 4. Seller may install, maintain and operate such check measuring equipment as it desires, provided that such check meter and equipment shall be so installed as not to interfere with the operation of the meters to be installed and maintained by Buyer at or near the point of delivery, as provided in Section 1 of this Article VI.

ARTICLE VII

Units of Volume

Section 1. The unit of volume for all purposes hereunder (except for computation of "quality" values under the provisions of Article V) shall be one (1) cubic foot at an [554] absolute pressure of fourteen and sixty-five hundredths pounds (14.65#) per square inch at a temperature of sixty (60) degrees Fahrenheit.

Section 2. The unit of volume for the determination of heating value under sub-paragraph *g* of Section 1 of

Article V hereof shall be the amount of gas, saturated with water vapor, which would occupy a volume of one (1) cubic foot at a temperature of sixty (60) degrees Fahrenheit and under a pressure equivalent to thirty (30) inches of mercury at thirty-two (32) degrees Fahrenheit.

Section 3. The unit of volume for determination of quality values under sub-paragraphs *b*, *c* and *d* of Section 1 of Article V hereof shall be one (1) cubic foot at a temperature of sixty (60) degrees Fahrenheit and under a pressure equivalent to thirty (30) inches of mercury at thirty-two (32) degrees Fahrenheit.

ARTICLE VIII

Measurement

Section 1. All measurement of gas hereunder shall be in accordance with the recommendations for measuring gas contained in Report No. 2 of the Gas Measurement Committee of the American Gas Association dated May 6, 1935, including the appendix thereto, applied in a practical and appropriate manner, and correction shall be made for deviation from Boyle's Law. Deviation from Boyle's Law will be computed in accordance with Bulletin TS 461 of the California Natural Gasoline Association, 1947, or such other method as the parties may hereafter agree upon.

[555] Section 2. For the purpose of measurement, the average atmospheric (barometric) pressure shall be assumed to be thirteen and two-tenths pounds (13.2#) per square inch absolute, irrespective of the actual elevation or location of the point of delivery with respect to sea level or of variations in such barometric pressure from time to time.

Section 3. The temperature of the gas flowing through the meter or meters shall be determined by the use of a recording thermometer of standard manufacture, installed by Buyer so that it may properly record the temperature of the gas flowing through Buyer's meter or meters at the point of delivery. The arithmetrical average of the twenty-four (24) hour record, or of that portion of the twenty-four (24) hours during which gas was passing if gas had not been passing during the entire period, from the recording thermometer shall be taken to be the gas temperature for the day and shall be used to make proper corrections in volume computations.

Section 4. The specific gravity of the gas delivered hereunder shall be determined by the use of a recording gravitometer to be installed, maintained and operated by Buyer at the point of delivery. The arithmetical average of the hourly specific gravity during each twenty-four (24) hour period, or during that period which gas was actually passing, shall be used to make proper correction in volume computations.

[556] Section 5. The gross heating value of the gas shall be determined by Buyer at intervals of three (3) months or by means of recording calorimeters of the Thomas type, at the option of Buyer.

ARTICLE IX

Price

Section 1. The price per one thousand (1000) cubic feet to be paid by Buyer to Seller for all gas sold and delivered hereunder shall be as follows:

a. For the first five (5) year period, beginning with the initial date of delivery of gas hereunder, six point six nine nine eight cents (6.6998¢).

b. For the second five (5) year period, seven point five nine three one cents (7.5931¢).

c. For the third five (5) year period, eight point four eight six four cents (8.4864¢).

d. For the fourth five (5) year period and so long as this agreement is in effect, the weighted average price per one thousand (1000) cubic feet, quality and pressure considered, being paid at the commencement date of such five (5) year period for all gas sold and delivered from all gasoline plants located within a radius of two hundred and fifty (250) miles of the Town of Andrews, Texas (excluding, however, the following counties in the State of Texas: Carson, Potter, Gray, Wheeler, Hutchinson, Sherman, Hansford, and Moore), exclusive of sales to Buyer, but not less than nine point three seven nine seven cents (9.3797¢) per one thousand (1000) cubic feet.

[557] Section 2. If, at any time or times subsequent to the date of this agreement and so long as gas is delivered hereunder, there shall be in effect any agreement between Buyer and any other party or parties providing for the purchase of gas by Buyer at a point located within a radius of two hundred and fifty (250) miles of the Town of Andrews, Texas (excluding, however, the following counties in the State of Texas: Carson, Potter, Gray, Wheeler, Hutchinson, Sherman, Hansford, and Moore), at a price per one thousand (1000) cubic feet higher than the price at the same time payable by Buyer to Seller for gas hereun-

der, Buyer shall forthwith notify Seller of such fact and of the amount of such higher price, and thereupon the price at the time payable to Seller for gas hereunder shall be immediately increased so that it will equal the price payable at the same time under such other agreement, and such higher price hereunder shall continue in effect so long as, but only so long as, any such higher price is payable for gas by Buyer under any such other agreement. In determining whether the price payable under any such other agreement is "higher" than the price payable to Seller hereunder, due consideration shall be given to the provisions of this agreement as compared with the provisions of such other agreement as to quantity and quality of gas, delivery pressure, gathering and compressing arrangements, provisions regarding measurement of gas including deviation from Boyle's Law, taxes payable on or in respect of the gas delivered, and all other pertinent factors.

[558] ARTICLE X

BILLING

Section 1. On or before the tenth (10th) day of each calendar month, Buyer shall render Seller a statement showing the total volume of gas purchased during the preceding calendar month, and on or before the twentieth (20th) day of each calendar month, Buyer shall tender Seller its check payable to Seller or order for all such volumes so purchased. It is understood, however, that such statements and payments will be based upon Buyer's measurements and computations, and that the receipt and acceptance thereof shall not bind bind Seller or prevent Seller from correcting any er-

rors in any such statement or payment or any errors in measurement or computation upon which such statement or payment is based, until the expiration of one (1) year after rendition of such statement. Buyer shall be entitled to deduct from the amount due Seller all taxes upon or in respect to the surplus residue gas delivered hereunder, which are required to be borne by Seller under the provisions of Article XIV hereof, but which are required by law or regulation to be paid by Buyer. Seller shall account to and pay the royalty owners having interest in the gas delivered hereunder.

Section 2. Upon the request of Seller, Buyer shall furnish Seller with meter charts showing all volumes measured in any calendar month. Seller shall return to [559] Buyer all charts after they have been inspected, after which return the charts shall be kept on file by buyer for the mutual use of both parties for a period of six (6) years, and after expiration of said period of six (6) years Buyer may destroy said charts.

ARTICLE XI

TITLE

Seller hereby warrants the title to the gas delivered hereunder and that the same will be free from all liens and adverse claims.

ARTICLE XII

RESPONSIBILITY

Buyer shall not be responsible for the gas deliverable hereunder and shall be held harmless against any damage or injury caused thereby until same shall have been delivered to Buyer at the delivery point specified

in Article IV hereof, after which delivery Buyer shall be deemed in exclusive control and possession thereof and responsible for and shall hold Seller harmless against any injury or damage caused thereby.

ARTICLE XIII

Force Majeure

Section 1. Except for Buyer's obligation to make payments for gas delivered hereunder, neither party [560] hereto shall be liable for any failure to perform the terms of this agreement when such failure is due to "force majeure" as hereinafter defined. The term "force majeure" as employed in this agreement shall mean acts of God, strikes, lockouts or industrial disturbances, civil disturbances, arrests and restraint from rulers and people, interruptions by government or court orders, present and future valid orders of any regulatory body having proper jurisdiction, acts of the puble enemy, wars, riots, blockades, insurrections, inability to secure materials or labor, epidemics, landslides, lightning, earthquakes, fire, storms, floods, washouts, explosions, breakage or accident to machinery or lines of pipe, freezing of wells or pipe lines, inability to obtain right of way, partial or entire failure of gas supply, or any other cause, whether of the kind herein enumerated or otherwise, not reasonably within the control of the party claiming force majeure. Nothing herein contained, however, shall be construed to require either party to settle a strike against its will.

Section 2. It is understood that either party may, without liability to the other party, interrupt the operations of its plants or pipe line system for the purpose

of making necessary alterations or repairs thereto, but that such interruptions shall be for only such time as may be reasonable. The party interrupting operations shall give the other party reasonable notice, except in case of emergency, of its intention so to interrupt operations and of the [561] estimated time during which no surplus residue gas will be taken or delivered, as the case may be.

ARTICLE XIV

Taxes

Seller shall bear all taxes assessed upon or in respect of the surplus residue gas delivered hereunder up to the delivery thereof to Buyer, and Buyer shall bear all taxes upon or in respect of such surplus residue gas on and after such delivery; provided that three-fourths (¾) of any and all increases after the date of execution of this agreement, in taxes of any kind (except ad valorem taxes on properties and income taxes) upon or with respect to the surplus residue gas delivered hereunder up to the delivery thereof by Seller to Buyer or upon the sale thereof by Seller to Buyer, shall be borne by Buyer, and one-fourth (¼) shall be borne by Seller, regardless of whether the increase results from an increase in the taxes now in existence or from the levy of new or additional taxes; provided that Buyer shall not be obligated to bear that part of any new or additional tax or taxes, which part is based upon or measured by the natural gasoline or other liquefied hydrocarbon content extracted from the gas before its delivery to Buyer hereunder.

[562]

ARTICLE XV

Term

This agreement shall be effective from the date hereof, and shall continue in force for a term of twenty (20) years from the date of initial delivery of surplus residue gas hereunder, and thereafter from year to year until cancelled by either party upon written notice given to the other party, not less than one hundred and eighty (180) days prior to the expiration of said twenty (20) years of any anniversary date thereof.

ARTICLE XVI

Successors and Assigns

This agreement shall bind and benefit the parties hereto and their respective successors and assigns, and shall be a covenant running with the Gasoline Plant; provided that no conveyance or transfer of any interest of either party shall be binding upon the other party until such other party has been furnished with written notice and true copy of such conveyance or transfer; provided, further, that either Buyer or Seller, or both, may assign its right, title and interest in, to and by virtue of this agreement, including any and all extensions, renewals, amendments and supplements thereto, to a trustee or trustees, individual or corporate, as security for bonds or [563] other obligations or securities, without such trustee or trustees assuming or becoming in any respect obligated to perform any of the obligations of the assignor, and provided, further, if any such trustee be a corporation, then such trustee may accept said assignment without its being required

by the parties hereto to qualify to do business in the State of Texas.

ARTICLE XVII

Notices

Section 1. Notices to be given hereunder shall be in writing and shall be deemed sufficiently given and served when and if deposited in the United States Mail, postage prepaid and registered, addressed to Gulf Oil Corporation, Post Office Box 1290, Fort Worth, Texas, or to El Paso Natural Gas Company, Post Office Box 1492, El Paso, Texas, as the case may be, or to such other address as either party shall respectively hereafter designate in writing.

Section 2. Routine communications, including monthly statements and payments, shall be considered as duly delivered when mailed, postage prepaid, by either registered mail or ordinary first class mail.

[564] In Witness Whereof, the parties hereto have caused this agreement to be executed, in duplicate originals, as of the day and year first above written.

Gulf Oil Corporation
"Seller"
/s/ By H. M. Craig, *Vice President*

Attest:
/s/ H. M. Craig, *Assistant Secretary*

El Paso Natural Gas Company
"Buyer"
/s/ By C. L. Perkins,
Vice President

Attest:
/s/ A. C. Martel, *Assistant Secretary*

[565] (VERIFICATION OMITTED IN PRINTING)

• • • • • • • • • •

[566]

EL PASO NATURAL GAS COMPANY
Tenth Floor Bassett Tower
El Paso, Texas

October 30, 1953

Gulf Oil Corporation
P. O. Drawer 1290
Fort Worth 1, Texas

Attention: Mr. Gordon H. Fisher

Re: Gulf Oil Corporation Waddell
Plant Residue Gas Contract

Gentlemen:

By letter dated October 19, 1953, Gulf Oil Corporation, hereinafter called "Gulf", advised El Paso Natural Gas Company, hereinafter called "El Paso", that effective as of July 1, 1954, Gulf will dedicate the total quantity of residue gas available for sale from its Waddell, Crane County, Texas, gasoline plant to the performance of that certain residue gas purchase agreement dated January 26, 1951, between Gulf, as Seller therein, and El Paso, as Buyer therein. Since El Paso will have a market and facilities for such gas, the same shall be covered by said residue gas purchase agreement, and this letter will serve to evidence the following amendments to said residue gas purchase agreement, all of which shall become effective as of July 1, 1954:

1.

Subsection *d.* of Article 1 of said residue gas purchase agreement shall be amended to be and read as follows:

"*d. Surplus Residue Gas* shall mean the residue gas in excess of the varying quantities required (1)for the operation and development of Seller's properties in the vicinity of said Plant, including but not by way of limitation residue gas for injection purposes; (2) to meet its obligations to its lessors under the terms of its oil, gas and mineral leases in the area in which the Plant is located; (3) to meet its obligations under the terms of its casinghead gas purchase contracts relating to the Plant, including but not by way of limitation residue gas for gas injection purposes; (4) to supply fuel for the drilling of wells in the area served by said [567] Plant, although located on leases not owned by Seller nor under casinghead gas purchase contracts to Seller; and (5) for fuel in the heating and maintenance of Seller's facilities, including the Plant and Camp and any additions and alterations thereto."

2.

Subsection *h.* of Article I of said residue gas purchase agreement shall be amended to be and read as follows:

"*h. Contract Volume* shall mean thirty million (30,000,000) cubic feet of surplus residue gas per day from the Gasoline Plant, unless and until the contract volume is changed under the provisions

of this agreement. In case the term "contract volume" as used in relation to any period greater than a day, the number of cubic feet of gas constituting the contract volume as above defined shall be multiplied by the number of days included in such period."

If the above correctly states Gulf's understanding concerning the matters covered herein, please indicate Gulf's agreement to the amendments above provided by executing two of the enclosed copies of this letter in the space provided below and returning the same to El Paso, attention Mr. D. H. Tucker, Vice President.

Very truly yours,

EL PASO NATURAL GAS COMPANY
/s/ By D. H. TUCKER, *Vice President*

ACCEPTED AND AGREED TO:
GULF OIL CORPORATION

/s/ By: G. U. FISHER, *Attorney-in-Fact*

[568]

Agreement

(RECEIVED MAY 23, 1956)

THIS AGREEMENT, made and entered into as of the 1st day of September, 1955, by and between EL PASO NATURAL GAS COMPANY, a Delaware corporation, with offices in El Paso, Texas, hereinafter referred to as "El Paso", and Gulf Oil Corporation, a Pennsylvania corporation, with an office in Fort Worth, Texas, hereinafter called "Gulf",

WITNESSETH:

WHEREAS, heretofore under date of January 26, 1951, El Paso and Gulf entered into an agreement, subsequently amended from time to time, providing for the sale by Gulf to El Paso and the purchase by El Paso from Gulf of certain residue gas available from Gulf's Waddell Plant, located in Crane County, Texas, and

WHEREAS, Gulf has available at said Waddell Plant volumes of gas in excess of the volumes now provided in the residue agreement, and Gulf desires to sell to El Paso and El Paso desires to purchase from Gulf such additional gas;

NOW, THEREFORE, El Paso and Gulf agree as follows:

It is recognized that, in order for El Paso to receive delivery of the quantities of gas provided for in the residue agreement, as the residue agreement is amended and supplemented by this agreement, it will be necessary for El Paso to make application to the Federal Power Commission for a Certificate of Public

Convenience and [569] Necessity authorizing the construction of additional facilities to take delivery of the gas. El Paso shall proceed with due diligence and dispatch in an attempt to obtain such a certificate. If such a certificate is obtained by El Paso in form acceptable to it, El Paso shall then proceed with due diligence and dispatch to construct the necessary facilities in order to enable it to perform its obligation under the residue agreement, as the residue agreement is amended and supplemented by this instrument. The date when such facilities shall have been completed and placed in operation is hereinafter called the "effective date".

2.

If, at the expiration of one(1) year from the date of this agreement, El Paso shall not have obtained from the Federal Power Commission a Certificate of Public Convenience and Necessity in form acceptable to it covering the construction of its facilities contemplated hereunder, this agreement shall terminate at such time, and neither party hereto shall have any further liability to the other.

3.

On the effective date Subsection *h.* of Article I of said residue gas purchase agreement shall be amended to thereafter and read as follows:

> "*h. Contract Volume* shall mean forty million (40,000,000) cubic feet of surplus residue gas per day from the Gasoline Plant, unless and until the contract volume is changed under the provisions of this agreement. In case the term 'contract

> [570] volume' as used in relation to any period greater than a day, the number of cubic feet of gas constituting the contract volume as above defined shall be multiplied by the number of days included in such period."

4.

As hereby amended and supplemented, the residue gas purchase agreement dated January 26, 1951, shall remain in full force and effect.

IN TESTIMONY WHEREOF, this instrument is executed on this 17th day of October, 1955.

EL PASO NATURAL GAS COMPANY
/s/ By D. H. TUCKER
Vice President

GULF OIL CORPOGATION
/s/ Illegible -- -- ---- -- -- -- --
Vice President

ATTEST:
/s/ V. M. PLUMMER
Ass't. Secretary

ATTEST:
/s/ B. M. CRAIG
Ass't. Secretary

[571]

Agreement

(RECEIVED JANUARY 29, 1958)

THIS AGREEMENT, made and entered into as of the 15th day of December, 1956, by and between EL PASO NATURAL GAS COMPANY, a Delaware corporation, with offices in El Paso, Texas, hereinafter referred to as "El Paso", and GULF OIL CORPORATION, a Pennsylvania corporation, with an office in Fort Worth, Texas, hereinafter called "Gulf",

WITNESSETH:

WHEREAS, heretofore under date of January 26, 1951, El Paso and Gulf entered into an agreement, subsequently amended from time to time, providing for the sale by Gulf to El Paso and the purchase by El Paso from Gulf of certain residue gas available from Gulf's Waddell Plant, located in Crane County, Texas, and

WHEREAS, Gulf has available at said Waddell Plant volumes of gas in excess of the volumes now provided in the residue agreement, and Gulf desires to sell to El Paso and El Paso desires to purchase from Gulf such additional gas;

NOW, THEREFORE, El Paso and Gulf agree as follows:

1.

It is recognized that, in order for El Paso to receive delivery of the quantities of gas provided for in the residue agreement, as the residue agreement is amended and supplemented by this agreement, it will be

necessary for El Paso to make application to the Federal Power Commission for a Certificate of Public Convenience and Necessity authorizing the construction of additional facilities to take delivery of the gas. El Paso shall proceed with due diligence and dispatch in an attempt to obtain such a certificate. If such a certificate is obtained by El Paso in form acceptable to it, El Paso shall then proceed with due diligence and dispatch to construct the necessary facilities in order to enable it to perform its obligation under the residue agreement, as the residue amendment is amended and [572] supplemented by this instrument. The date when such facilities shall have been completed and placed in operation is hereinafter called the effective date.

2.

If, at the expiration of one (1) year from the date of this agreement, El Paso shall not have obtained from the Federal Power Commission a Certificate of Public Convenience and Necessity in form acceptance to it covering the construction of its facilities contemplated hereunder, this agreement shall terminate at such time, and neither party hereto shall have any further liability to the other.

3.

On the effective date Subsection *h.* of Article I of said residue gas purchase agreement shall be amended to thereafter be and read as follows:

> "*h. Contract Volume* shall mean eighty million (80,000,000) cubic feet of surplus residue gas per day from the Gasoline Plant, unless and until the

contract volume is changed under the provisions of this agreement. In case the term 'contract volume' is used in relation to any period greater than a day, the number of cubic feet of gas constituting the contract volume as above defined shall be multiplied by the number of days included in such period.

4.

As hereby amended and supplemented, the residue gas purchase agreement dated January 26, 1951, shall remain in full force and effect.

EL PASO NATURAL GAS COMPANY
/s/ By D. H. TUCKER
Vice President

GULF OIL CORPORATION
/s/ By H. M. BAYER
Vice President

ATTEST:
/s/ V. M. PLUMMER
Ass't. Secretary

ATTEST:
/s/ B. M. CRAIG
Ass't. Secretary

[573]

Amendatory Agreement

This Amendatory Agreement made and entered into as of the 26th day of October, 1959, by and between EL PASO NATURAL GAS COMPANY, a Delaware corporation with an office in El Paso, Texas, hereinafter referred to as "El Paso", and WARREN PETROLEUM CORPORATION with an office in Tulsa, Oklahoma, hereinafter referred to as "Warren",

WITNESSETH:

WHEREAS, El Paso and Gulf Oil Corporation are parties to a certain Gas Purchase Agreement dated January 26, 1951, as amended, covering the sale of Residue gas by Gulf as "Seller", to El Paso as "Buyer" from the Waddell Plant located in Crane County, Texas, which contract as amended is hereinafter referred to as the "Waddell Contract", and

WHEREAS, Warren Petroleum Corporation has acquired the interest from Gulf Oil Corporation in said Waddell Contract, and

WHEREAS, the Waddell Contract contains a "Favored Nations" clause, and

WHEREAS, El Paso desires to eliminate such "Favored Nations" clause for the purpose of stabilizing its gas purchase prices in the Permian Basin area of West Texas and Southeastern New Mexico, and

WHEREAS, it is recognized that the continuance of the life of said Waddell Plant and the continuance of supplies of residue gas for delivery therefrom under said Waddell Contract as hereby being supplemented

and amended will be dependent upon the renewal [574] of existing Casinghead Gas Contracts and the obtaining of additional Casinghead Gas Contracts; and it is recognized by the parties that, in order for Warren to make such renewals and obtain such new contracts, the prices received by it for gas under said Waddell Contract as hereby supplemented and amended must be such that it will be competitive with other present and prospective Casinghead Gas purchasers;

NOW, THEREFORE, El Paso and Warren agree as follows:

Effective as of January 1, 1960, the Waddell Contract shall be amended as follows:

A. There is hereby added to Article II of said Waddell Contract the following unnumbered paragraph as follows:

"As a part of the consideration of this agreement, Seller agrees diligently and continually to undertake to renew the existing Casinghead Gas Contracts serving said Waddell Plant as such contracts expire and to obtain new contracts on supplies of gas available to said plant not previously contracted to Seller; provided that Seller shall not be required to obtain any new Casinghead Gas Contracts or renew any existing Casinghead Gas Contracts covering gas which, in its judgment, will be uneconomical for it to gather and process in said Waddell Plant."

B. Article IX shall be deleted in its entirety and the following substituted therefor:

"ARTICLE IX

PRICE

Section 1. The price to be paid by Buyer to Seller per one thousand (1,000) cubic feet for all gas sold hereunder shall be as follows:

[575] (a) For the period from January 1, 1960, until August 1, 1964, seventeen cents (17¢).

(b) For the five (5) year perod beginning August 1, 1964, eighteen cents (18¢).

(c) For the five (5) year period beginning August 1, 1969, and for each succeeding five (5) year period thereafter, the price for gas shall be increased one cent (1¢) per one thousand (1,000) cubic feet over the price in effect during the preceding five (5) year period.

Section 2. Seller shall have the right, at its option, to require a redetermination of the prices provided for in subparagraph (c) of Section 1 of this article. If Seller shall desire to exercise such option Seller shall give Buyer written notice of such desire not earlier than one hundred eighty (180) days nor later than one hundred twenty (120) days prior to August 1, 1969. If Seller shall make such request representatives of Buyer and Seller shall promptly meet and attempt to determine the price to be paid for the gas to be delivered under the provisions of this agreement for each of the five (5) year periods referred to in said subparagraph (c). The price for each such five (5) year period so determined at such time, or determined by arbitration as provided in Article XVIII hereof, shall represent, in the best

judgment of the parties making such determination, the probable fair market price for such gas at the beginning of each such period, but in no event shall the price for any such period be less than the price provided in said subparagraph (c). In making such determination consideration shall be given to all [576] pertinent factors."

C, The following Article XVIII, Arbitration, shall be added:

"ARTICLE XVIII

ARBITRATION

If after negotiations pursuant to the provisions of Section 2 of Article IX Buyer and Seller shall be unable to agree on said prices, the same shall be determined by arbitration in the following manner: Buyer shall appoint one arbitrator and Seller shall appoint one arbitrator and the two arbitrators so appointed shall select a third arbitrator. If either Buyer or Seller shall fail to appoint an arbitrator within ten (10) days after a request for such appointment is made by the other party in writing, or if the two arbitrators so appointed shall fail within ten (10) days after the appointment of the second of them to agree on a third arbitrator, the arbitrator or arbitrators necessary to complete a board of three arbitrators shall be appointed upon application by either party therefor by the United States District Judge, senior in point of service, of a Federal Judicial District in which some part of the property covered by this agreement is situated. In the event such judge shall fail or refuse to act, then either party hereto may request the American Arbitration

Association to select the arbitrator or arbitrators to complete the board of three. After three arbitrators are appointed pursuant to the foregoing provisions of this article they shall meet, hear the parties with respect to the matter of said prices, and arrive at a determination of said prices. Any determination agreed to in writing by at least two of said arbitrators shall be final and binding on [577] the parties hereto, subject to the provisions of Section 2 of Article IX. All arbitrators appointed pursuant to this article shall be individuals experienced in the oil and gas industry and competent to pass on the matter of said prices. The fees and expenses of the arbitrators shall be borne equally by the parties hereto."

D. Article XV, "Term", is hereby amended so that the portion thereof reading "from the date of initial delivery of surplus residue gas hereunder", is deleted, and the words "from January 1, 1960," substituted therefor.

E. It is agreed that the tax reimbursement provisions of Article XIV of the Waddell Contract are effective as to all increases in taxes specified occurring from and after January 1, 1950.

F. It is recognized that this Amendatory Agreement, when properly executed and filed with the Federal Power Commission, will become a supplement to Seller's Rate Schedule No. 43 on file with said Commission, and Seller agrees to make such filings. Seller further agrees to furnish Buyer copies of all Federal Power Commission filings made pursuant hereto, and shall furnish Buyer copies of all

orders, communications, etc., that Seller may receive from the Commission with respect thereto.

Except as herein specifically supplemented and amended, all [578] other terms of the Waddell Contract shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed in duplicate originals, on this day and year first above written.

EL PASO NATURAL GAS COMPANY

By /s/ D. H. TUCKER
D. H. Tucker
Vice President

WARREN PETROLEUM CORPORATION

By /s/ (Illegible)
President

ATTEST:
/s/ (Illegible)
Assistant Secretary

ATTEST:
/s/ DON M. MATTOCK
Secretary

[579]

Amendment of Residue Gas Purchase Agreement

THIS AGREEMENT, made and entered into as of the 17th day of April, 1972, by and between EL PASO NATURAL GAS COMPANY, a Delaware corporation, hereinafter called "Buyer," and WARREN PETROLEUM COMPANY, A DIVISION OF GULF OIL CORPORATION, hereinafter called "Seller,"

WITNESSETH:

WHEREAS, Buyer and Seller are parties to that certain Residue Gas Purchase Contract dated January 26, 1951, covering the sale of surplus residue gas by Seller to Buyer from the Waddell Gasoline Plant, Crane County, Texas, which said contract, as heretofore amended and supplemented, is hereinafter referred to as the "Waddell Plant Contract"; and

WHEREAS, the Waddell Plant Contract is in full force and effect; and

WHEREAS, Buyer and Seller now desire to further amend the Waddell Plant Contract in the particulars hereinafter set forth:

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements herein contained, Buyer and Seller agree as follows:

1.

Effective as of the date hereof, the Waddell Plant Contract shall be amended as follows:

A. Section 2 of Article IX, *"Price,"* shall be deleted in its entirety and the following substituted therefor.

[580] "Section 2. If the Federal Power Commission, or any successor governmental authority having jurisdiction in the premises, shall at any time hereafter prescribe a rate for the purchase and sale of gas of a similar quality in the area in which Seller's said Plant is situated higher than the price herein provided to be paid, then the price to be paid by Buyer to Seller for surplus residue gas hereunder shall be increased effective as of the date such higher rate is prescribed to equal such higher rate; provided, however, that Buyer shall have the right, at its option, to intervene in any rate proceeding held to give consideration to any rate higher than those provided for herein, to oppose therein any such higher rate, and in the event such higher rate is prescribed, to seek relief therefrom in any regulatory agency or any court having jurisdiction, but such relief, if obtained, shall not result in a price hereunder which is less than the price set out in this article. Whenever the provisions of this Section 2 effectuate an increase in price, such increased price shall thereupon be substituted for and become the applicable contract price hereunder and shall thereafter be subject to the same future periodic increases in the contract price as provided in Section 1 of this Article."

B. The phrase "from January 1, 1960" appearing in the first paragraph of Article XV, "*Term,*" shall be deleted in its entirety and the phrase "from January 1, 1972" substituted therefor.

[581] C. Article XVIII, "*Arbitration,*" shall be deleted in its entirety and be of no further force or effect.

2.

As herein specifically supplemented and amended, the Waddell Plant Contract shall remain in full force and effect in accordance with its terms.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed in duplicate originals on this day and year first above written.

"BUYER"

EL PASO NATURAL GAS COMPANY

By /s/ A. M. DERRICK
A. M. Derrick
Asst. Vice President

"SELLER"

WARREN PETROLEUM COMPANY,

A DIVISION OF GULF OIL CORPORATION
By /s/ L. W. MILLER
Vice President

ATTEST:
/s/ (Illegible)
Assistant Secretary

ATTEST:
/s/ BRIAN E. HARDEN
Assistant Secretary

[596] UNITED STATES OF AMERICA
FEDERAL POWER COMMISSION

Before Commissioners: Jerome K. Kuykendall, Chairman; Frederick Stueck, William R. Connolo and Arthur Kline.

Docket No. G-13445

In the Matter of
GULF OIL CORPORATION

(Issued February 24, 1958)

Findings and Order Issuing Certificate of Public Convenience and Necessity

On October 14, 1957, Gulf Oil Corporation (Applicant), an independent producer of natural gas, filed in Docket No. G-13445 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of an additional 40,000 Mcf of residue natural gas per day to El Paso Natural Gas Company from Gulf's Waddell Gasoline Plant in Crane County, Texas.

It appears that additional capacity at Waddell Plant will become operative in January 1958, making this additional supply available.

Temporary authorization to make the additional sale of natural gas as requested in this proceeding was granted to Gulf Oil Corporation on January 2, 1958.

Pursuant to due notice, a public hearing was held in Washington, D. C., on February 13, 1958, respect-

ing the matters involved in and the issues presented by this application. No petition to intervene or protest to the granting of the application has been received. Staff counsel moved orally at the hearing that the intermediate decision procedure be omitted and that the Commission render a decision herein pursuant to Section 1.30 (c)(1) of the Commission's Rules of Practice and Procedure.

The Commission finds:

(1) Gulf Oil Corporation, an independent producer of natural gas, is engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption, subject to the jurisdiction of the Commission, and is, therefore, a "natural-gas company" within the meaning of the Natural Gas Act.

(2) The sale of natural gas hereinbefore described, as more fully [597] described in the application herein, will be made in interstate commerce, subject to the jurisdiction of the Commission, and such sale by Applicant, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, is subject to the requirements of subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The sale of natural gas by Applicant, together with the construction and operation of any facilities

subject to the jurisdiction of the Commission necessary therefor, is required by the public convenience and necessity, and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) A request during the public hearing by staff counsel for omission of the intermediate decision procedure was unopposed by any party of record and, not having been denied by the Commission, is granted pursuant to Section 1.30 (c)(1) of the Commission's Rules of Practice and Procedure.

The Commission orders:

(A) A certificate of public convenience and necessity be and the same is hereby issued, upon the terms and conditions of this order, authorizing the sale by Gulf Oil Corporation of natural gas in interstate commerce for resale, together with the construction and operation of any facilities subject to the jurisdiction of the Commission used for the sale of natural gas in interstate commerce, as hereinbefore described and as more fully described in the application and exhibits in this proceeding.

(B) The certificate issued herein shall be deemed accepted and of full force and effect unless refused in writing and under oath by Applicant within 30 days of the date of issuance of this order.

(C) This certificate is not transferable and shall be effective only so long as Applicant continues the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations and orders of the Commission.

(D) The grant of the certificate herein shall not be construed as a waiver of the requirements of Section 4 of the Natural Gas Act or of Section 154 of the Commission's Regulations thereunder requiring the filing [598] of rate schedules for the service herein authorized; and is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceeding now pending or hereafter instituted by or against the Applicant. Further, our action in this proceeding shall not foreclose nor prejudice any future proceedings or objections relating to the operation of any price or related provision in the gas purchase contract herein involved.

By the Commission

/s/ JOSEPH H. GUTRIDE
Joseph H. Gutride,
Secretary

[582]

TABLE OF CONTENTS

Preamble		1
ARTICLE I	Adoption by Reference	2
ARTICLE II	Governmental Authorizations	2
ARTICLE III	Commitment	4
ARTICLE IV	Residue Gas Allocation	5
ARTICLE V	Price	6
ARTICLE VI	Term	8

[583]

Residue Gas Purchase Agreement

THIS AGREEMENT, made and entered into as of the 1st day of March, 1972, by and between EL PASO NATURAL GAS COMPANY, a Delaware corporation, hereinafter called "Buyer," and WARREN PETROLEUM COMPANY, A Division of Gulf Oil Corporation, hereinafter called "Seller,"

WITNESSETH:

WHEREAS, Seller owns and operates the Waddell Gasoline Plant located in Crane County, Texas, which plant is hereinafter referred to in this agreement as the "Waddell Plant" or the "said Plant"; and

WHEREAS, Seller sells and delivers to Buyer and Buyer purchases and receives from Seller volumes of surplus residue gas from said Plant pursuant to the terms and provisions of that certain Residue Gas Purchase Agreement between Seller and Buyer dated January 26, 1951, which agreement, together with all amendments thereto, is hereinafter referred to in this agreement as the "Waddell Plant Residue Gas Purchase Agreement"; and

WHEREAS, in order to assure a continuing supply of raw gas to the Waddell Plant for processing therein and the delivery to Buyer of the resultant volumes of surplus residue gas attributable thereto, Seller, in contemplation of this agreement, has either entered into or will enter into certain new Waddell Plant Producer Supply Gas Purchase Contracts and contemplates that it will, by virtue of this agreement, be able to renew or extend certain other [584] of

its Waddell Plant Producer Supply Gas Purchase Contracts and to acquire additional new Waddell Plant Producer Supply Gas Purchase Contracts; and

WHEREAS, Buyer and Seller have agreed on the purchase and sale of the aforesaid resultant volumes of surplus residue gas under the terms and provisions of this agreement;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements herein contained, Buyer and Seller agree as follows:

ARTICLE I

ADOPTION BY REFERENCE

To the extent not in variance with the terms and provisions of this agreement, all terms and provisions of the Waddell Plant Residue Gas Purchase Agreement are hereby adopted by reference, insofar as such terms and provisions pertain to the delivery by Seller and receipt by Buyer of volumes of surplus residue gas hereunder from said Plant with the same effect as though copied herein at this point.

ARTICLE II

GOVERNMENTAL AUTHORIZATIONS

Section 1. Buyer represents that it holds a Certificate of Public Convenience and Necessity issued by the Federal Power Commission (or otherwise has the necessary authority) covering the construction, ownership, and operation of the facilities necessary in order for Buyer to perform its obligations under the provisions of this agreement. Promptly after

the date of this agreement and [585] from time to time thereafter as may be necessary, Seller shall make such applications and filings to and with the Federal Power Commission as may be required on the part of Seller in order to procure such Certificate of Public Convenience and Necessity and other approvals as may be necessary in order for Seller to effect delivery of surplus residue gas under the provisions of this agreement or to otherwise perform its obligations hereunder. Seller further agrees to furnish to Buyer copies of all such filings and copies of all orders that Seller may receive from such Commission with respect to the sale of surplus residue gas hereunder.

Section 2. In the event Seller shall not have received and accepted the Certificate of Public Convenience and Necessity referred to in Section 1 of this Article within a period of ninety (90) days from the date of filing of its application therefor, then either Buyer or Seller may at any time thereafter while such condition continues, give written notice to the other party that it desires to terminate this agreement. If any such notice is given, this agreement shall terminate thirty (30) days after the date on which such notice is given, unless at the end of such thirty (30) day period Seller shall have received and accepted said Certificate of Public Convenience and Necessity. If this agreement shall terminate pursuant to the provisions of this Section, neither Buyer nor Seller shall thereafter have any further liability under this agreement to the other.

Section 3. If Seller shall receive and accept the Certificate of Public Convenience and Necessity re-

ferred to in Section 1 [586] of this Article prior to any termination of this agreement pursuant to the provisions of Section 2 of this Article, it shall so notify Buyer and first deliveries of surplus residue gas shall commence hereunder on the date Seller shall have tendered surplus residue gas for sale to Buyer hereunder.

ARTICLE III

Commitment

Seller represents that, in contemplation of this agreement and in furtherance of its continuing endeavors to deliver volumes of surplus gas to Buyer from said Plant, Seller has either entered into or will enter into certain new Waddell Plant Producer Supply Gas Purchase Contracts and contemplates that it will renew or extend certain other of its existing Waddell Plant Producer Supply Gas Purchase Contracts and that it will acquire additional new Waddell Plant Producer Supply Gas Purchase Contracts. Accordingly, Seller hereby commits to the performance of its obligations under this agreement all volumes of surplus residue gas attributable to raw gas delivered to and processed in said Plant from the raw gas sources set forth in Exhibit "A" hereto under such renewed, extended and new Waddell Plant Producer Supply Gas Purchase Contracts and as may be set forth in said Exhibit "A" as subsequently amended in the manner hereinafter provided. Said commitment shall also include all volumes of surplus residue gas attributable to raw gas delivered to and processed in said Plant from those properties owned by Gulf Oil Corporation (Gulf), as may be

set forth in said Exhibit "A" as subsequently amended in the manner hereinafter provided, which [587] are developed by Gulf from and after the date of this agreement, provided that Seller shall have the right to at any time limit any further such commitments by subjecting such commitments to an agreement with Buyer of similar content and purpose hereof. The applicable Waddell Plant field gas metering stations and numbers assigned thereto by which such raw gas is measured and subsequently delivered to said Plant for processing as of the date of this agreement are described on Exhibit "A" hereto. Seller shall have the continuing right from time to time and at any time to amend said Exhibit "A" by giving Buyer written noice of its desire to so amend, specifying in such notice those Waddell Plant field gas metering stations and numbers assigned thereto along with other data consistent with the requirements of said Exhibit "A" applicable to any new and/or renegotiated Waddell Plant Producer Supply Gas Purchase Contracts entered into by Seller subsequent to the date of this agreement, or those field metering stations and numbers assigned thereto along with such other required data applicable to raw gas from properties owned and developed by Gulm as aforesaid. Upon receipt of any such notice by Buyer, said Exhibit "A" shall be deemed amended accordingly.

ARTICLE IV

Residue Gas Allocation

Computation of the volumes of surplus residue gas delivered to Buyer from the Waddell Plant under this agreement and the volumes of surplus residue gas delivered to Buyer from said Plant under the Waddell Plant Residue Gas Purchase Agreement requires an allocation of the combined surplus residue gas stream delivered to Buyer from [588] said Plant. It is agreed that the volumes of surplus residue gas delivered to Buyer by Seller from said Plant under this agreement and under the Waddell Plant Residue Gas Purchase Agreement, as well as any future agreements of similar content and purpose, shall be determined in accordance with the allocation procedures set forth in Exhibit "B" hereto attached and made a part hereof. Alteration of or addition to these procedures may become desirable during the term hereof. However, no such alterations or additions shall be effective except as mutually agreed between the parties.

ARTICLE V

Price

Section 1. The price to be paid by Buyer to Seller per one thousand (1,000) cubic feet of surplus residue gas sold and delivered from said Plant under this agreement shall be as follows:

(a) For the period commencing on the date of first delivery of residue gas hereunder and continuing until January 1, 1973, thirty cents (30¢).

(b) For the one (1) year period commencing January 1, 1973, and continuing until January 1, 1974, thirty-one cents (31¢).

(c) For the next one (1) year period and for each succeeding one (1) year period thereafter, the price to be paid by Buyer to Seller shall be increased one cent (1¢) over the price herein provided to be paid during the preceding one (1) year period.

In the event the average total gross heating value each month of [589] surplus residue gas shall be either more or less than one thousand (1,000 British thermal units per cubic foot, then the price otherwise payable pursuant to either (a), (b), or (c) above for surplus residue gas shall be either increased or reduced. Such reduced or increased price shall be determined by multiplying the price otherwise payable pursuant to either (a), (b), or (c) above by a fraction, the numerator of which is the actual total gross heating value of such gas, expressed in British thermal units per cubic foot, and the denominator of which is one thousand (1,000). The actual total gross heating value of surplus residue gas, measured at the point of delivery hereunder, shall be determined each month. The unit of volume for the determination of such total gross heating value shall be the amount of gas, on a dry basis, which would occupy a volume of one (1) cubic foot at a temperature of sixty (60) degrees Fahrenheit and under a pressure equivalent to thirty (30) inches of mercury at thirty-two (32) degrees Fahrenheit.

Section 2. If the Federal Power Commission, or any successor governmental authority having jurisdiction in the premises, shall at any time hereafter prescribe a rate for the purchase and sale of gas of a similar quality in the area in which Seller's said Plant is situated higher than the price herein provided to be paid, then the price to be paid by Buyer to Seller for surplus residue gas hereunder shall be increased effective as of the date such higher rate is prescribed to equal such higher rate; provided, however, that Buyer shall have the right, at its option, to intervene in any rate proceeding held to give consideration to any rate higher than those [590] provided for herein, to oppose therein any such higher rate, and in the event such higher rate is prescribed, to seek relief therefrom in any regulatory agency or any court having jurisdiction, but such relief, if obtained, shall not result in a price hereunder which is less than the price set out in this article. Whenever the provisions of this Section 2 effectuate an increase in price, such increased price shall thereupon be substituted for and become the applicable contract price hereunder and shall thereafter be subject to the same future periodic increases in the contract price as provided in Section 1 of this article.

ARTICLE VI

Term

This agreement shall become effective as of the date hereof and, unless sooner terminated in accordance with the provisions of Article II hereof, shall remain in force and effect for a term ending January 1, 1987.

In witness whereof, the parties hereto have caused this agreement to be executed in duplicate originals as of the day and year first above written.

"Buyer"

El Paso Natural Gas Company

By /s/ A. M. Derrick
A. M. Derrick
Asst. Vice President

"Seller"

Warren Petroleum Company,
A Division of Gulf Oil Corporation

By /s/ L. W. Miller
Vice President

Attest:
/s/ (Illegible)
Assistant Secretary

Attest:
/s/ Brian E. Harden
Assistant Secretary

[591]

Exhibit "A"

(Attached to Residue Gas Purchase Agreement of March 1, 1972, between Warren Petroleum Company, a Division of Gulf Oil Corporation, and El Paso Natural Gas Company)

WADDELL PLANT

Meter Station Number	Lease Operator	Lease Name	Lease Description
64-769	Amoco Prod. Co.	J. McGee "A"	All Sec. 1, Blk. 32, PSL Crane County, Texas

(New contract dated 2-7-72. Replaces old contract dated 9-27-66. Firm term of new contract is for period of ten years beyond firm term of old contract).

64-640	Amoco Prod. Co.	University "AH"	SW/4 Sec. 3, Blk. 31 University Land Crane County, Texas

(New contract dated 2-7-72. Replaces old contract dated 9-6-56. Firm term of new contract is for period of ten years beyond firm term of old contract).

64-774	Gulf Oil Corp.	State "EC"	NE/4 Sec. 4, Blk. 30, University Lands
		State "EI"	NW/4 Sec. 3, Blk. 30, University Lands
64-772	Gulf Oil Corp.	State "ED"	SW/4 & W/2 SE/4 Sec. 3, Blk. 30, University Lands
64-700	Gulf Oil Corp.	State "EE"	SE/4 Sec. 9, Blk. 30, University Lands

Meter Station Number	Lease Operator	Lease Name	Lease Description
64-467]] 64-699]	Gulf Oil Corp.	State "EF"	N/2 Sec. 10, Blk. 30, University Lands
64-698]] 64-466]	Gulf Oil Corp.	State "EG"	S/2 Sec. 10, Blk. 30 University Lands
64-700A	Gulf Oil Corp.	State "EJ"	SW/4 Sec. 9, Blk. 30 University Lands Crane County, Texas

(New contract as to *Amoco Prod. Co.'s 50% interest* in above leases dated 2-7-72. Replaces old contract dated 4-24-63. Firm term of new contract is for period of ten years beyond firm term of old contract).

[592]

64-617	Gulf Oil Corp.	McKnight-Crowley (below a depth of 3,800 feet)	SW/4 SW/4 & S/2 NW/4 SW/4 & S/2 NE/4 SW4 & NE/4 NE/4 SW/4 & N/2 SE/4 SW/4 & SW/4 SE/4 SW/4 Sec. 10, Blk. B-21 Public School Land Crane County, Texas

(New contract as to *W. H. Black, et al, 50% interest* in above lease dated 2-7-72. Replaces old contract dated 9-6-56. Firm term of new contract is for period of ten years beyond firm term of old contract).

64-705	W. Ridley Wheeler Estate	J. H. Edwards	N/2 NW/4 & S/2 NE/4 Sec. 19, Blk. B-17 Public School Land Crane County, Texas

(New contract as to *71.875% interest* dated 2-23-72. Replaces old contract dated 4-20-64. Firm term of new contract is for period of ten years beyond firm term of old contract).

[593]

Exhibit "B"

(Attached To Residue Gas Purchase Agreement Dated As Of March 1, 1972, Between El Paso Natural Gas Company And Warren Petroleum Company, A Division Of Gulf Oil Corporation.)

Residue Gas Allocation Procedure

The volume of "residue gas remaining" from the gas delivered to Seller's gas processing plant from each lease connected thereto shall be determined by (1) multiplying the volume of such gas delivered from such lease by the applicable theoretical percentage as shown in the following table, the result being the "theoretical volume of residue gas remaining" from the gas delivered from such lease, (2) dividing the "total actual volume of residue gas remaining" (determined in the manner hereinafter provided) from all gas delivered to said plant by the total "theoretical volume of residue gas remaining" from all gas delivered to said plant (the latter being the sum of the theoretical volumes for all leases from which gas is delivered to said plant) and expressing the results in percentage, and (3) multiplying the "theoretical volume of residue gas remaining" from such lease by said last mentioned percentage. The "total actual volume of residue gas remaining" from all gas delivered to said plant as used herein shall mean that volume of residue gas remaining, after the extraction of liquefiable hydrocarbons, from all gas processed in said plant, less the volume of residue gas necessary for plant operation. Said "total actual volume of residue gas remaining" shall be measured

by suitable orifice meters of standard make to be installed and kept in repair by Seller at the various points where the gas is delivered to producers and to purchasers (if not measured by purchasers) and to flare. It is provided, however, that Seller shall not be required to measure deliveries [594] of small quantities of gas which would not, in Seller's judgment, justify a meter installation; and the volumes of such deliveries shall be estimated by Seller in accordance with methods followed generally in the natural gasoline industry.

The volume of residue gas available for sale from the gas delivered from each lease shall be the remainder obtained by subtracting the volume, determined either by estimate or measurement, that Seller delivered to such lease for lease operations from the volume of "residue gas remaining." The volume of residue gas sold hereunder and attributable to gas purchased by Seller from the leases described in Exhibit "A" shall be deemed to be that proportionate part of the total volume of residue gas sold from said plant by Seller to Buyer which the total volume of residue gas available for sale from said leases described in said Exhibit "A" bears to the total volume of residue gas available for sale from all gas delivered to Seller for processing in such plant.

Examination by Buyer of the records kept by Seller respecting such gas allocation shall be permitted by Seller at any and all reasonable hours. All statements rendered by Buyer to Seller during any calendar year shall be conclusively presumed to be true and correct after 24 months following the end of any such calendar year unless within such 24

month period Buyer takes written exception thereto and makes claim on Seller for adjustment. Failure on the part of Buyer to make claim on Seller for adjustment within such period shall establish the correctness thereof and preclude the filing of exceptions thereto or making of claims for adjustment thereof.

[595]

Theoretical Percentage of Casinghead Gas Remaining as Residue After Extraction of Gasoline and Plant Use Based Upon Gasoline Content in Gallons Per 1,000 Cubic Feet (G.P.M.), Such Gasoline Content to be Determined Periodically As Provided In Seller's Gas Purchase Contracts By Field Compression Test Or Charcoal Test Made In Accordance With The Official Code Of The Natural Gas Processors' Association For Testing Natural Gas For Gasoline Content.

G.P.M.	%	G.P.M.	%	G.P.M.	%	G.P.M.	%	G.P.M.	%	G.P.M.	%	G.P.M.	%
.00	93.60	2.00	72.90	4.00	54.30	6.00	38.30	8.00	25.10	10.00	13.70	12.00	3.50
.05	93.10	2.05	72.45	4.05	53.85	6.05	37.90	8.05	24.80	10.05	13.34	12.05	3.25
.10	92.60	2.10	72.00	4.10	53.40	6.10	37.50	8.10	24.50	10.10	13.00	12.10	3.00
.15	92.10	2.15	71.50	4.15	52.95	6.15	37.20	8.15	24.25	10.15	12.75	12.15	2.75
.20	91.50	2.20	71.00	4.20	52.50	6.20	36.90	8.20	24.00	10.20	12.50	12.20	2.50
.25	91.05	2.25	70.50	4.25	52.15	6.25	36.55	8.25	23.65	10.25	12.25	12.25	2.30
.30	90.50	2.30	70.10	4.30	51.80	6.30	36.20	8.30	23.30	10.30	12.00	12.30	2.10
.35	90.05	2.35	69.60	4.35	51.30	6.35	35.80	8.35	22.95	10.35	11.75	12.35	1.85
.40	89.60	2.40	69.10	4.40	50.80	6.40	35.40	8.40	22.60	10.40	11.50	12.40	1.60
.45	89.00	2.45	68.65	4.45	50.40	6.45	35.10	8.45	22.30	10.45	11.25	12.45	1.40
.50	88.40	2.50	68.20	4.50	50.00	6.50	34.80	8.50	22.00	10.50	11.00	12.50	1.20
.55	87.85	2.55	67.70	4.55	49.65	6.55	34.45	8.55	21.70	10.55	10.75	12.55	.90
.60	87.30	2.60	67.20	4.60	49.30	6.60	34.10	8.60	21.40	10.60	10.50	12.60	.60
.65	86.80	2.65	66.70	4.65	48.85	6.65	33.80	8.65	21.10	10.65	10.25	12.65	.35
.70	86.30	2.70	66.20	4.70	48.40	6.70	33.50	8.70	20.80	10.70	10.00	12.70	.10
.75	85.75	2.75	65.75	4.75	47.95	6.75	33.15	8.75	20.55	10.75	9.75		
.80	85.20	2.80	65.30	4.80	47.50	6.80	32.80	8.80	20.30	10.80	9.50		
.85	84.70	2.85	64.90	4.85	47.15	6.85	32.50	8.85	20.05	10.85	9.25		
.90	84.20	2.90	64.50	4.90	46.80	6.90	32.20	8.90	19.80	10.90	9.00		
.95	83.65	2.95	63.95	4.95	46.35	6.95	31.85	8.95	19.50	10.95	8.75		
1.00	83.10	3.00	63.40	5.00	45.90	7.00	31.50	9.00	19.20	11.00	8.50		
1.05	82.50	3.05	62.95	5.05	45.50	7.05	31.15	9.05	18.85	11.05	8.25		
1.10	81.90	3.10	62.50	5.10	45.10	7.10	30.80	9.10	18.50	11.10	8.00		
1.15	81.40	3.15	62.00	5.15	44.75	7.15	30.50	9.15	18.20	11.15	7.70		
1.20	80.90	3.20	61.50	5.20	44.20	7.20	30.20	9.20	17.90	11.20	7.40		
1.25	80.40	3.25	61.00	5.25	43.85	7.25	29.85	9.25	17.60	11.25	7.20		
1.30	79.90	3.30	60.50	5.30	43.50	7.30	29.50	9.30	17.30	11.30	7.00		
1.35	79.45	3.35	60.15	5.35	43.05	7.35	29.25	9.35	17.05	11.35	6.75		
1.40	79.00	3.40	59.80	5.40	42.60	7.40	29.00	9.40	16.80	11.40	6.50		
1.45	78.50	3.45	59.30	5.45	42.25	7.45	28.65	9.45	16.50	11.45	6.25		
1.50	78.00	3.50	58.80	5.50	41.90	7.50	28.30	9.50	16.20	11.50	6.00		
1.55	77.50	3.55	58.35	5.55	41.55	7.55	28.00	9.55	16.00	11.55	5.80		
1.60	77.00	3.60	57.90	5.60	41.20	7.60	27.70	9.60	15.80	11.60	5.60		
1.65	76.50	3.65	57.40	5.65	40.80	7.65	27.30	9.65	15.50	11.65	5.35		
1.70	76.00	3.70	56.90	5.70	40.40	7.70	26.90	9.70	15.20	11.70	5.10		
1.75	75.50	3.75	56.55	5.75	40.15	7.75	26.70	9.75	14.95	11.75	4.85		
1.80	75.00	3.80	56.20	5.80	39.90	7.80	26.50	9.80	14.70	11.80	4.60		
1.85	74.50	3.85	55.75	5.85	39.50	7.85	26.20	9.85	14.45	11.85	4.35		
1.90	74.00	3.90	55.30	5.90	39.10	7.90	25.90	9.90	14.20	11.90	4.10		
1.95	73.45	3.95	54.80	5.95	38.70	7.95	25.50	9.95	13.95	11.95	3.80		

B-3

[599]

UNITED STATES OF AMERICA
FEDERAL POWER COMMISSION

Notice of Certificates of Public Convenience and Necessity Issued to Producer Respondents Pursuant to Opinion No. 662 and Designation of FPC Gas Rate Schedules and Gas Rate Schedule Supplements Accepted for Filing

(July 22, 1974)

By Opinion No. 662 and order issued August 7, 1973, in Docket No. AR70-1 (Phase I), mimeo, p. 20, paragraph (J), the Commission issued certificates of public convenience and necessity to producer respondents based upon applications pending on the effective date of the opinion.[1] The opinion did not further identify the particular producer respondents or the dockets in which the applications had been filed. In order that the applicants might be advised of the disposition of their applications there is affixed as Appendix hereto a definitive list of the affected applications.

The applicants have filed FPC gas rate schedules or supplements to rate schedules on file with the Commission proposing to initiate, add, delete, or succeed in part to natural gas service in interstate commerce.

[1] The statutory hearing for those certificate applications, for sales in the Permian Basin, which had been noticed and for which the period for filling protests or interventions had expired prior to August 7, 1973, is considered to have been held when Opinion No. 662 and order were acted on by the Commission and permanent certification of such applications was accomplished by ordering paragraph (J) thereof. Those applications which either had not been noticed prior to August 7, 1973, or for which the notice period had not yet expired do not fall within the purview of Opinion No. 664's statutory hearing and have been issued separately or will be considered in the future.

Those FPC gas rate schedules or rate schedule supplements are now or have heretofore been accepted for filling and designated as indicated in the Appendix hereto.

KENNETH F. PLUMB
Secretary

[600]

DOCKETS IN WHICH CERTIFICATES WERE ISSUED PURSUANT TO OPINION NO. 662

Appendix

Rate Schedule Designation: A - Initial Service; B - Amendment; C - Amendment to add acreage; D - Amendment to delete acreage; E - Total Succession; F - Partial Succession

Docket No. and Date Filed	Rate Schedule Designation	Applicant	Purchaser and Location	FPC Gas Rate Schedule Description and date of document 1/	Number	Supp.
C-11580 3-2-73	C	Sohio Petroleum Company (Operator), et al.	Northern Natural Gas Company (North Eunice San Andres Gas Pool, Lea County, New Mexico)	Amend. Agree 2-2-73	63	11
C161-1332 3-28-72	C	Cities Service Oil Company (Operator)	Transwestern Pipeline Company (Bluitt Gasoline Plant, Roosevelt County, New Mexico)	Amendment 1-24-72 Contract 1-24-72	213 213	6 7
C163-708 4-14-72 4-24-72	C	CRA, Inc.	Northern Natural Gas Company (Dove Creek and Velrex Fields, Irion and Schleicher Counties, Texas)	Amend. Agree. 4-21-72 Letter 7-17-72	49 49	26 1 to 26
C163-708 6-11-73	C	CRA, Inc.	Northern Natural Gas Company (Las Perlas Field, Irion County, Texas)	Amend. Agree. 3- 1-73 (Effective Date: Date of Initial Delivery)	49	29
C164-708 4-16-73 2/	D	Gulf Oil Corporation (Operator), et al.	Transwestern Pipeline Company (Worshan Bayer Ellenburger Field, Reeves County, Texas)	Letter Agree. 1-25-73	373	9
C165-561 3-6-72	C	Cities Service Oil Company (Operator).	Natural Gas Pipeline Company of America (Bluitt Gasoline Plant, Roosevelt County, New Mexico)	Amendment 3- 1-71 Contract 3- 1-71	214 214	10 11
C165-606 A 1-17-66		Exxon Corporation	El Paso Natural Gas Company (Cooper Jal Field, Lea County, New Mexico)	Contract 11-3-52 Supp. Agree. 1- 1-61 Supp. Agree. 12-21-65	386 386 386	- 1 2

1/ Where no effective date is shown, the rate schedule filing has heretofore been accepted.

2/ Acreage being deleted is being added to another contract with the same buyer in Docket No. C173-695.

[601]

DOCKETS IN WHICH CERTIFICATES WERE ISSUED PURSUANT TO OPINION NO. 662

Appendix

Rate Schedule Designation: A - Initial Service; B - Amendment; C - Amendment to add acreage; D - Amendment to delete acreage; E - Total Succession; F - Partial Succession

Docket No. and Date Filed	Rate Schedule Designation	Applicant	Purchaser and Location	FPC Gas Rate Schedule Description and date of document 1/	Number	Supp.
C165-678 A 3-1-66		The Atlantic Richfield Company	El Paso Natural Gas Company (West Waha Field, Reeves County, Texas)	Contract 2-14-66	300	-
C166-110 C 3-13-72 3-24-72		CRA, Inc.	Northern Natural Gas Company (Mertzon Plant, Irion and Tom Greene Counties, Texas)	Letter 11-18-71 Letter 5-15-72	51 51	7 8
C166-110 C 7-14-72 7-24-72		CRA, Inc.	Northern Natural Gas Company (Dove Creek, West Mertzon and Las Perlas Canyon Sand) Fields, Tom Green and Irion Counties, Texas)	Amend. Agree 4-25-72 Letter 7-11-72 Letter 7-13-72	51 51 51	10 1-to 10 2 to 10

1/ Supra.

BEST COPY AVAILABLE

- 3 -

DOCKETS IN WHICH CERTIFICATES WERE ISSUED PURSUANT TO OPINION NO. 662

Appendix

A = Initial Service
B = Abandonment
C = Amendment to add acreage
D = Amendment to delete acreage
E = Total Succession
F = Partial Succession

Docket No. and Date Filed	Applicant	Purchaser and Location	Description and date of document 1/	Rate	Supp.
CI68-605 A 10-30-67	Southwestern Natural Gas, Inc.	West Lake Natural Gasoline Company and Sinclair Oil & Gas Company (Nena Lucia (Strawn Reef) Field, Nolan County, Texas)	Contract 9-8-67	3	--
CI70-267 A 9-16-69	Exxon Corporation	Transwestern Pipeline Company (Barstow Field, Ward County, Texas)	Contract 5-2-69	469	--
CI70-460 A 11-12-69	Exxon Corporation	Northern Natural Gas Company (Pikes Peak Field, Pecos County, Texas)	Contract 10-14-69	471	--
CI71-530 C 6-16-72	Phillips Petroleum Company	El Paso Natural Gas Company (Goldsmith Plant, Ector County, Texas)	Amendment 5-16-72	483	--

1/ Supra.

BEST COPY AVAILABLE

- 4 -

DOCKETS IN WHICH CERTIFICATES WERE ISSUED PURSUANT TO OPINION NO. 662

Appendix

A = Initial Service
B = Abandonment
C = Amendment to add acreage
D = Amendment to delete acreage
E = Total Succession
F = Partial Succession

Docket No. and Date Filed	Applicant	Purchaser and Location	Description and date of document 1/	Rate	Supp.
CI71-560 A 2-1-71 C 3-11-71 C 10-19-72	Phillips Petroleum Company	El Paso Natural Gas Company (Sales Ranch Field, Martin and Midland Counties, Texas)	Contract 1-8-71	484	--
			Supp. Agree. 9-26-72	484	1
			Amend. Agree. 9-26-72	484	3
CI71-815 A 3-10-71	Midwest Oil Corporation	Transwestern Pipeline Company (New Mexico State "Y" No.1, Chaves County, New Mexico)	Contract 4-28-71	39	--
CI71-901 A 6-25-71	Mobil Oil Corporation	Northern Natural Gas Company (Gomez (Ellenburger) Field, Pecos County, Texas)	Contract 6-8-71	471	--
CI72-275 A 11-5-71	Phillips Petroleum Company	El Paso Natural Gas Company (Jones Ranch Area, Eddy County, New Mexico)	Contract 10-14-71	492	--
CI72-309 A 11-24-71	Getty Oil Company	El Paso Natural Gas Company (Cotton Draw Field, Eddy County, New Mexico)	Contract 9-1-71	194	--

1/ Supra.

- 5 -

DOCKETS IN WHICH CERTIFICATES WERE ISSUED PURSUANT TO OPINION NO. 642

Appendix

Docket No. and Date Filed | Applicant | Purchaser and Location | FPC Gas Rate Schedule: Description and date of document 1/ | Volume | Page

C172-424 A 1-13-72	Hassie Hunt Trust	El Paso Natural Gas Company (N. Puckett (Wolfcamp) Field, Pecos County, Texas)	Contract 1-7-72	40	
C172-502 A 2-11-72	Warren Petroleum Company, a Division of Gulf Oil Corporation	El Paso Natural Gas Company (Eunice Plant, Lea County, New Mexico)	Contract 1-1-72 Contract 10-3-47 Amendment 5-1-59 Amendment 10-26-59	60 60 60 60	-- 1 2 3
C172-519 A 2-22-72 C 8-23-72	Cities Service Oil Company	El Paso Natural Gas Company (Caverns Area, Eddy County, New Mexico)	Contract 1-25-72 Supp. Agree. 8-11-72	382 382	-- 3
C172-587 A 3-17-72	Atlantic Richfield Company (Operator), et al.	Transwestern Pipeline Company (Rock Tank Field, Eddy County, New Mexico)	Contract 3-6-72	654	--
C172-590 A 3/ 3-20-72 C 3/ 2-20-73	Phillips Petroleum Company (Operator), et al.	El Paso Natural Gas Company (Goldsmith Plant, Ector County, Texas)	Contract 3-1-72	497	--
C172-591 A 3/ 3-20-72 C 3/ 2-20-73	Phillips Petroleum Company (Operator), et al.	El Paso Natural Gas Company (Eunice Plant, Lea County, New Mexico)	Contract 3-1-72	498	--

1/ Supra.

3/ Authorization does not include renewals and extensions of plant supply contracts which have not terminated. Under Opinion No. 639 applicant is not entitled to the new gas ceiling rate for residue gas attributable to raw gas purchased under a new plant supply contract until the old gas supply contract expires.

- 6 -

DOCKETS IN WHICH CERTIFICATES WERE ISSUED PURSUANT TO OPINION NO. 622

Appendix

Docket No. and Date Filed | Applicant | Purchaser and Location | FPC Gas Rate Schedule: Description and date of document 1/ | Volume | Page

C172-592 A 3/ 3-20-72 C 3/ 2-20-73	Phillips Petroleum Company (Operator), et al.	El Paso Natural Gas Company (Lea Plant, Lea County, New Mexico)	Contract 3-1-72	499	--
C172-593 A 3/ 3-20-72 C 3/ 2-20-73	Phillips Petroleum Company (Operator), et al.	El Paso Natural Gas Company (Hobbs Plant, Lea County, New Mexico)	Contract 3-1-72	500	--
C172-594 A 3/ 3-20-72 C 3/ 2-20-73	Phillips Petroleum Company (Operator), et al.	El Paso Natural Gas Company (Lusk Plant, Lea County, New Mexico)	Contract 3-1-72	501	--
C172-595 A 3/ 3-20-72 3-30-73	Phillips Petroleum Company (Operator), et al.	El Paso Natural Gas Company (Fullerton Plant, Andrews County, Texas)	Contract 3-1-72	502	--
C172-596 A 3/ 3-20-72 C 3/ 2-20-73	Phillips Petroleum Company (Operator), et al.	El Paso Natural Gas Company (Crane Plant, Crane County, Texas)	Contract 3-1-72	503	--
C172-597 A 3/ 3-20-72 3-30-73	Phillips Petroleum Company (Operator), et al.	El Paso Natural Gas Company (Ector Plant, Ector County, Texas)	Contract 3-1-72	504	--

1/ Supra.

2/ Supra.

- 7 -

DOCKETS IN WHICH CERTIFICATES WERE ISSUED PURSUANT TO OPINION NO. 662

Appendix

E = Initial Service
R = Reinstatement
A = Amendment to add acreage
D = Amendment to delete acreage
X = Total Succession
Y = Partial Succession

Docket No. and Date Filed	Applicant	Purchaser and Location	Description and Date of Agreement 1/	Rate	Sup.
C172-598 A 3/ 3-20-72	Phillips Petroleum Company (Operator), et al.	El Paso Natural Gas Company (Wilson Plant, Lea County, New Mexico)	Contract 3-1-72 (Effective Date: Date of Commission Authorization)	505	--
C172-635 A 4-3-72	Cities Service Oil Company	Transwestern Pipeline Company (Rock Tank Field, Eddy County, New Mexico)	Contract 3-23-72	384	--
C172-685 A 3/ 4-21-72 3-33-73	Phillips Petroleum Company (Operator)	El Paso Natural Gas Company (Tunstill Plant, Reeves County, Texas)	Contract 3-1-72	506	--
C172-686 A 3/ 4-21-72 4-3-72 3-2-73	Phillips Petroleum Company (Operator)	El Paso Natural Gas Company (Winkler Plant, Winkler County, Texas)	Contract 3-1-72	507	--
C172-705 A 3-1-72	Atlantic Richfield Company	Northern Natural Gas Company (Shoe Bar Atoka Pool, Lea County, New Mexico)	Contract 3-24-72	656	--
C172-706 A 3-1-72	Sun Oil Company	Transwestern Pipeline Company (Halley Field, Winkler County, Texas)	Contract 4-10-72	509	--
C172-716 (CS71-2) F 3-9-72 7-23-72	Shelly Oil Company (succ. to George F. Chagard, Jr., Trustee)	Natural Gas Pipeline Company of America (Haley Unit, Loving and Winkler Counties, Texas)	Contract 4-12-71 Assignment 9-13-71	257 257	-- 1

1/ Supra.

2/ Supra.

- 8 -

DOCKETS IN WHICH CERTIFICATES WERE ISSUED PURSUANT TO OPINION NO. 662

Appendix

E = Initial Service
R = Reinstatement
A = Amendment to add acreage
D = Amendment to delete acreage
X = Total Succession
Y = Partial Succession

Docket No. and Date Filed	Applicant	Purchaser and Location	Description and Date of Agreement 1/	Rate	Sup.
C172-731 A 5-15-72	Gulf Oil Corporation	El Paso Natural Gas Company (North Puckett (Wolfcamp) Field, Pecos County, Texas)	Contract 1-8-72	435	--
C172-745 A 5-19-72	Hunt Oil Company	Northern Natural Gas Company (Elsinore (Devonian) Field, Pecos County, Texas)	Contract 5-5-72	71	--
C172-755 A 3/ 5-22-72 C 3/ 1-24-73	Warren Petroleum Company, A Division of Gulf Oil Corporation (Operator)	El Paso Natural Gas Company (Tatum Gasoline Plant, Lea County, New Mexico)	Contract 3-1-72 Letter Agree. 5-16-72	61 61	-- 1
C172-756 A 3/ 5-22-72 C 3/ 1-24-73	Warren Petroleum Company, A Division of Gulf Oil Corporation (Operator)	El Paso Natural Gas Company (Caliche Gasoline Plant, Lea County, New Mexico)	Contract 3-1-72	62	--
C172-757 A 3/ 5-22-72 C 3/ 1-24-73	Warren Petroleum Company, A Division of Gulf Oil Corporation (Operator)	El Paso Natural Gas Company (Monument Gasoline Plant, Lea County, New Mexico)	Contract 3-1-72	63	--
C172-758 A 3/ 5-22-72 C 3/ 1-24-73	Warren Petroleum Company, A Division of Gulf Oil Corporation (Operator)	El Paso Natural Gas Company (Saunders Gasoline Plant, Lea County, New Mexico)	Contract 3-1-72 Letter Agree. 5-16-72	64 64	-- 1

1/ Supra.

2/ Supra.

- 9 -

DOCKETS IN WHICH CERTIFICATES WERE ISSUED PURSUANT TO OPINION NO. 662

Appendix

A = Initial Service
B = Abandonment
C = Amendment to add acreage
D = Amendment to delete acreage
E = Total Succession
F = Partial Succession

Docket No. and Date Filed	Applicant	Purchaser and Location	FPC Gas Rate Schedule: Description and Date of Document 1/	Number	Supp.
CI72-759 A 3/ 3-22-72 C 3/ 1-24-73	Warren Petroleum Company, A Division of Gulf Oil Corporation (Operator)	El Paso Natural Gas Company (Eunice Gasoline Plant, Lea County, New Mexico)	Contract 3-1-72 Letter Agree. 3-16-72	65 65	-- 1
CI72-760 A 3/ 3-22-72 C 3/ 1-24-73	Warren Petroleum Company, A Division of Gulf Oil Corporation (Operator)	El Paso Natural Gas Company (Waddel Gasoline Plant, Crane County, Texas)	Contract 3-1-72 Letter Agree.3-16-72	66 66	-- 1
CI72-762 A 3/ 3-23-72 11-22-72	Skelly Oil Company (Operator)	Northern Natural Gas Company (Eunice Plants, Lea County, New Mexico)	Contract 3-15-72 Letter Agree. 3-15-72	262 262	-- 1
CI72-764 A 3-24-72	Gulf Oil Corporation	Transwestern Pipeline Company (Rock Tank Morrow Field Eddy County, New Mexico)	Contract 4-25-72	436	--
CI72-771 A 3/ 3-25-72 11-22-72	Skelly Oil Company (Operator)	El Paso Natural Gas Company (Eunice Plats, Lea County, New Mexico)	Contract 3-1-72	263	--
CI72-841 A 6-19-72	Exxon Corporation	El Paso Natural Gas Company (West Fort Chadbourne Field, Runnels County, Texas)	Contract 6-2-72	309	--
CI72-834 A 6-23-72	Skelly Oil Company (Operator), et al.	El Paso Natural Gas Company (East Vealmoor Plant, Howard County, Texas)	Contract 6-20-72	260	--

1/ Supra.

1/ Supra.

- 10 -

DOCKETS IN WHICH CERTIFICATES WERE ISSUED PURSUANT TO OPINION NO. 662

Appendix

A = Initial Service
B = Abandonment
C = Amendment to add acreage
D = Amendment to delete acreage
E = Total Succession
F = Partial Succession

Docket No. and Date Filed	Applicant	Purchaser and Location	FPC Gas Rate Schedule: Description and Date of Document 1/	Number	Supp.
CI73-14 A 7-7-72 3-7-73	Continental Oil Company	Transwestern Pipeline Company (Maljamar Area, Lea County, New Mexico)	Contract 3-1-72	379	--
CI73-22 A 7-10-72	Pennzoil Company	Transwestern Pipeline Company (Acreage in Eddy County, New Mexico)	Contract 6-19-72	35	--
CI73-23 A 7-12-72	Pennzoil Company	Transwestern Pipeline Company (Acreage in Eddy County, New Mexico)	Contract 7-6-72	36	--
CI73-26 A 7-12-72	Belco Petroleum Corporation, et al.	Natural Gas Pipeline Company of America (Jones Ranch Area, Eddy County, New Mexico)	Contract 6-2-72	17	--
CI73-85 (CS72-852) F 8-7-72	Suburban Propane Gas Corporation (succ. to Delta Drilling Company, et al.)	Northern Natural Gas Company (Davidson Ranch Area, Crockett County, Texas)	Contract 10-27-65 Amendment 5-19-66 Amendment 5-30-66 Amendment 11-30-70 Agreement 6-22-72 Assignment 7-14-72	21 21 21 21 21 21	-- 1 2 3 4 5
CI73-85 D 6-25-73 4/	Suburban Propane Gas Corporation	Northern Natural Gas Company (Davidson Ranch Area, Crockett County, Texas)	Release Agree. 4-6-73 (Effective Date: Date of Commission Authorization)	21	6
CI73-99 A 8-10-72	Phillips Petroleum Company	El Paso Natural Gas Company (Drag A and Drag B Leases, Eddy County, New Mexico)	Contract 7-25-72	309	--

1/ Supra.

4/ No certificate deletion filing required; acreage being deleted is being added to another contract with the same buyer in Docket No. CI73-127.

- 11 -

DOCKETS IN WHICH CERTIFICATES WERE ISSUED PURSUANT TO OPINION NO. 662

Appendix

EXPLANATION
A - Initial Service
B - Abandonment
C - Amendment to add acreage
D - Amendment to delete acreage
E - Total Succession
F - Partial Succession

Docket No. and Date Filed	Applicant	Purchaser and Location	Rate Schedule Designation and Date of Instrument	Effective Date	Number	Supp.
CI73-113 A 8-17-72	Hunt Oil Company	El Paso Natural Gas Company (Acreage in Eddy County, New Mexico)	Contract	8-7-72	72	--
CI73-127 A 8-24-72	Suburban Propane Gas Corporation	Northern Natural Gas Company (Davidson Ranch Field, Crockett County, Texas)	Contract Assignment	6-30-72 7-14-72	22 22	-- 1
CI73-127 C 6-23-73 1/	Suburban Propane Gas Corporation	Northern Natural Gas Company (Davidson Ranch Field, Crockett County, Texas)	Amend. Agree. (Effective Date: Date of Initial Delivery)	4-6-73	22	3
CI73-165 A 9-5-72	Suburban Propane Gas Corporation	Northern Natural Gas Company (Ozoha Plant, Clearfork Field, Crockett County, Texas)	Contract	7-11-72	23	--
CI73-189 A 9-13-72	Skelly Oil Company	El Paso Natural Gas Company (Cedar Canyon Unit, Eddy County, New Mexico)	Contract	8-25-72	265	--
CI73-227 (CI1805) F 9-25-72	McCulloch Oil Corporation (succ. to Atlantic Richfield Company)	El Paso Natural Gas Company (Fowler Field, Lea County, New Mexico)	Contract Amend. Agree. Letter Agree. Amend. Agree. Assignment	7-19-39 4-2-42 12-6-49 12-18-61 4-8-72	23 23 23 23 23	-- 1 2 3 4
CI73-232 A 10-4-72	Gulf Oil Corporation	Northern Natural Gas Company (Flying "W" (Ellenburger) Field, Winkler County, Texas)	Contract	8-22-72	438	--
CI73-282 A 10-16-72	Phillips Petroleum Company	El Paso Natural Gas Company (NW James Ranch Prospect Field, Eddy County, New Mexico)	Contract	9-26-72	313	--

1/ Supra.

2/ Subject acreage is being deleted from Docket No. CI73-85.

- 12 -

DOCKETS IN WHICH CERTIFICATES WERE ISSUED PURSUANT TO OPINION NO. 662

Appendix

EXPLANATION
A - Initial Service
B - Abandonment
C - Amendment to add acreage
D - Amendment to delete acreage
E - Total Succession
F - Partial Succession

Docket No. and Date Filed	Applicant	Purchaser and Location	Rate Schedule Designation and Date of Instrument	Effective Date	Number	Supp.
CI73-292 (CI71-644) F 10-24-72	McCulloch Oil Corporation of Texas (succ. to Ladd Petroleum Corporation)	Northern Natural Gas Company (Fort Stockton-Dixel Unit, Pecos County, Texas)	Contract Amend. Agree. Assignment	12-1-70 5-1-72 9-6-72	4 4 4	-- 1 2
CI73-471 A 1-12-73	Mobil Oil Corporation	El Paso Natural Gas Company (Morrison (3600' Wolfcamp) (Ellenburger) Field, Crockett and Val Verde Counties, Texas)	Contract Letter Agree.	12-28-72 12-28-72	490 490	-- 1
CI73-673 A 4-5-73	Atlantic Richfield Company	El Paso Natural Gas Company (NMSU, Mattix No. 1, Lea County, New Mexico)	Contract	2-21-73	668	--
CI73-689 A 4-9-73	Continental Oil Company	El Paso Natural Gas Company (Fowler Upper Yeso Field, Lea County, New Mexico)	Contract	2-21-73	400	--
CI73-693 A 4-16-73 2/	Gulf Oil Corporation	Transwestern Pipeline Company (Worsham Bayer Ellenburger Field, Reeves County, Texas)	Contract (Effective Date: Date of Initial Delivery)	2-1-73	451	--
CI73-727 A 4-30-73	Amoco Production Company	El Paso Natural Gas Company (Levelland (San Andres) Field, Cochran County, Texas)	Contract	12-7-72	617	--
CI73-750 A 5-3-73	Chevron Oil Company, Western Division	El Paso Natural Gas Company (Fowler Upper Yeso Field, Lea County, New Mexico)	Contract	2-21-73	45	--

1/ Supra.

2/ Subject acreage is being deleted from Docket No. CI64-708.

- 13 -

DOCKETS IN WHICH CERTIFICATES WERE ISSUED PURSUANT TO OPINION NO. 662
Appendix

A - Initial Service
B - Abandonment
C - Amendment to add acreage
D - Amendment to delete acreage
E - Total Succession
F - Partial Succession

Docket No. and Date Filed	Applicant	Purchaser and Location	Description and Date of Instrument 1/	Rate Sch. No.	Supp. No.
CI73-770 (C162-825) F 5-3-73	Gulf Oil Corporation (Succ. to Mobil Oil Corporation)	El Paso Natural Gas Company (Rojo Caballos South (Ellenburger) Field, Pecos County, Texas)	Contract 12-28-60	444	--
			Letter Agree. 12-6-62	444	1
			Letter Agree. 12-26-62	444	2
			Amend. Agree. 6-14-65	444	3
			Amend. Agree. 12-22-65	444	4
			Amend. Agree. 9-21-71	444	5
			Amend. Agree. 4-19-73	444	6
			Letter Agree. 4-25-73	444	7
			Assignment 5-22-73	444	8
CI73-835 (CS73-81) F 5-29-73	Suburban Propane Gas Corporation (succ. to Pauley Petroleum, Inc.)	Northern Natural Gas Company (Sonora (Canyon Sand) Field, Sutton County, Texas)	Contract 12-30-63	27	--
			Amend. Agree. 2-23-65	27	1
			Supp. Agree. 5-11-67	27	2
			Amend. Agree. 5-25-67	27	3
			Amend. Agree. 11-6-69	27	4
			Assignment 5-9-73	27	5
CI73-859 A 6-6-73	Atlantic Richfield Company	Northern Natural Gas Company (Drinkard Field, Lea County, New Mexico)	Contract 3-30-73	670	--
CI74-25 A 7-13-73	Suburban Propane Gas Corporation	Northern Natural Gas Company (Mayer Ranch Area, Sutton County, Texas)	Contract 1-3-72	28	--
			Supp. Agree. 11-22-72	28	1
			Letter Agree. 12-11-72	28	2
			Supp. Agree. 3-6-73	28	3

1/ Supra.

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL POWER COMMISSION

Docket No. CP75-209

EL PASO NATURAL GAS COMPANY

Petition of El Paso Natural Gas Company for Issuance of a Declaratory Order

EL PASO NATURAL GAS COMPANY ("El Paso"), pursuant to Section 1.7(c) of the Commission's Rules of Practice and Procedure, hereby petitions for the prompt issuance of a declaratory order resolving the following questions:

(i) Given the fact that, according to Texas law, a certain 50-year fixed term lease automatically terminates on July 14, 1975, and the mineral rights thereunder revert to the reversionary interest owners, must Gulf Oil Corporation and other lessees under said certain 50-year fixed term lease, who have been selling gas produced from said lease on a percentage-type basis to Warren Petroleum Corporation for resale in interstate commerce, obtain abandonment authorization pursuant to Section 7(b) of the Natural Gas Act ("Act") and Section 154.91 of the Commission's Regulations Under the Natural Gas Act in order to cease such sales to El Paso and effectuate the transfer by reversion to Exxon Corporation, Southland Royalty Company, and other reversionary interest owners of the mineral rights under said certain 50-year fixed term lease?

(ii) Given the facts set forth in (i), without prior Commission authorization, may Exxon Corporation, Southland Royalty Company, and other reversionary interests divert natural gas from its present movement in interstate commerce to delivery and sale in intrastate commerce?

(iii) Given the facts set forth in (i), without prior Commission authorization, may Warren Petroleum Corporation reduce its sales in interstate commerce of residue natural gas to El Paso, the present level of which is attributable in part to production from the lease in question?

[2] In support hereof, El Paso respectfully states:

I.

The names, titles, and mailing addresses of those persons to whom correspondence and communications concerning this matter are to be addressed are as follows:

Mr. Walter G. Henderson
Assistant Vice President
El Paso Natural Gas Company
Post Office Box 1492
El Paso, Texas 79978

Mr. Robert N. Harbor
El Paso Natural Gas Company
310 Suffridge Building
1775 K Street, N. W.
Washington, D. C. 20426

The exact legal name of El Paso is El Paso Natural Gas Company. It is a corporation duly organized and

existing under the laws of the State of Delaware, having its principal place of business located in El Paso, Texas. El Paso is a wholly-owned subsidiary of The El Paso Company, which is also a corporation duly organized and existing under the laws of the State of Delaware having its principal place of business located in Houston, Texas. El Paso is authorized to conduct business as a foreign corporation in the States of Alaska, Arizona, Arkansas, Colorado, Idaho, Kansas, Louisiana, Montana, Nevada, New Mexico, New York, North Dakota, Oklahoma, Oregan, Texas, Utah, Washington, and Wyoming.

II.

El Paso is a "natural-gas company" engaged in the business of producing, purchasing, transporting, and selling natural gas to distribution companies and other pipeline companies for resale and to industries and others for direct consumption. El Paso's interstate pipeline system extends from the Permian Basin area of west Texas and southeast New Mexico, the Texas-Oklahoma Panhandle area, the San Juan Basin of northwest New Mexico and southwest Colorado, and the Four Corners area of the States of Arizona, New Mexico, Utah, and Colorado, through one or more of the States of Texas, New Mexico, Utah, Colorado, and Arizona, to points of termination at the boundary between the States of California and Arizona near Blythe, California, and Topock, Arizona, and to a point of termination at the boundary between the States of Arizona and Nevada near Big Bend, Arizona. El Paso also owns and operates an intrastate pipeline system, situated in the State of Texas, which serves consumers

in the El Paso, Texas, area and fuel requirements at certain of El Paso's plants and stations on its interstate system. The gas which is the subject hereof goes into El Paso's interstate system.

[3] III.

On July 14, 1925, Gulf Production Company, the corporate predecessor of Gulf Oil Corporation, as lessee, executed a 50-year fixed term oil and gas lease with W. N. Waddell, *et al.*, lessors.[1] Said oil and gas lease and amendment thereto dated March 16, 1926, are hereinafter referred to as the "50-year fixed term lease".

According to El Paso's information and belief, the current lessees under the 50-year fixed term lease are: (1) Gulf Oil Corporation, a corporation duly incorporated under the laws of the State of Pennsylvania and authorized to transact business within the State of Texas, (2) B.W.P., Inc., a corporation duly incorporated under the laws of the State of Texas, (3) Highland Production Company, Inc., a corporation duly incorporated under the laws of the State of Texas, (4) W. Nelson Rees, an individual who resides in Odessa, Ector County, Texas, (5) G. Dillard Anderson, Jr., an individual who resides in Midland, Midland County, Texas, (6) V. L. De Bolt, an individual who

[1] A true conformed copy of this oil and gas lease, recorded in Volume 10, pp. 397-400 of the Deeds Records of Crane County, Texas, is attached hereto as Exhibit "A" and made a part hereof. An amendment to this oil and gas lease dated March 16, 1926, recorded in Volume 12, pp. 205-206, of the Deed records of Crane County, Texas, was executed by the same parties, covering certain lands in Crane County, Texas, as described therein. A true copy of this amendment is attached hereto as Exhibit "B" and made a part hereof.

resides in Odessa, Ector County, Texas, and (7) John L. Harlan, Trustee, an individual who resides in either El Paso, El Paso County, or Monahans, Ward County, Texas. Gulf Oil Corporation and its predecessor, Gulf Production Company, are hereinafter referred to as "Gulf". All said lessees including Gulf are hereinafter referred to as "Gulf, *et al.*" Also according to El Paso's information and belief, the reversionary interest rights to the oil, gas, and other minerals produced from the acreage covered by the 50-year fixed term lease are now owned, held, or claimed by Exxon Company, U.S.A., a division of Exxon Corporation, by Southland Royalty Company, and by numerous individuals and corporations, as listed in Exhibit "C" and made a part hereof. Exxon Corporation and its division Exxon Company, U.S.A. are hereinafter referred to as "Exxon". Southland Royalty Company is hereinafter referred to as "Southland". All said owners as listed in Exhibit "C" including Exxon and Southland are hereinafter referred to as "Exxon, *et al.*"

By the terms of the 50-year fixed term lease, Gulf obtained the exclusive right of exploiting 45,771 acres of land in Crane County, Texas, and producing oil and gas therefrom. Upon execution of the lease, Gulf commenced drilling operations on the land and has continuously conducted operations thereupon to the present date. At the present [4] time Gulf is operating approximately 925 producing oil and gas wells on the land.

By the terms of the 50-year fixed term lease, the leasehold estate expires fifty years after date of execution, which is July 14, 1975. Gulf, *et al.* sought to extend the termination date of the 50-year fixed term

lease by either 4,661 or 4,286 days on the grounds that they are entitled to such additional days of production because of delays and interruptions arising out of their compliance with regulatory orders of the Texas Railroad Commission. The Supreme Court of Texas resolved the issue in *Gulf Oil Corporation* v. *Southland Royalty,* 496 S.W. 2d 547 (1973),[2] by holding that the expiration date of the lease was not extended and the leasehold interest of Gulf, *et al.* shall therefore expire on July 14, 1975. The mineral rights, including the rights to natural gas production, by Texas law shall therefore revert to the reversionary mineral interest owners, Exxon, *et al.,* on July 14, 1974.

IV.

On January 26, 1954, El Paso, as buyer, and Gulf, as seller, executed a residue gas purchase agreement by which El Paso agreed to buy surplus residue gas from Gulf's natural gasoline extraction plant in Crane County, Texas, called the Waddell Gasoline Plant.[3] On March 1, 1972, El Paso and Warren entered into an additional residue gas purchase agreement assuring El Paso of a continuing supply of quantities of residue

[2] A true copy of the decision of the Supreme Court of Texas in Gulf Oil Corporation v. Southland Royalty, 496 S.W. 2d 547 (1973), is attached hereto as Exhibit "D" and made a part hereof.

[3] The Waddell Gasoline Plant is located in Section 25, Block B-26 Public School Lands, Crane County, Texas.

On November 1, 1957, Gulf conveyed all of its interest in the Waddell Gasoline Plant to Gulf's wholly-owned subsidiary, Warren Petroleum Corporation ("Warren"). On November 1, 1957, Gulf also assigned to Warren the residue gas purchase agreement dated January 26, 1951. On December 31, 1971, Warren was merged into Gulf and now operates as a division of Gulf.

gas from the Waddell Gasoline Plant. These residue gas purchase agreements, and subsequent amendments thereto, constitute Warren's FPC Gas Rate Schedule Nos. 43 and 46, respectively.[4] El Paso takes delivery [5] of such surplus residue gas into its pipeline system at the outset at the Waddell Gasoline Plant and transports it through its jurisdictional facilities for subsequent resale in interstate commerce.[5] El Paso purchases, transports, and resells approximately 60 MMcf of such surplus residue gas daily.[6]

Of the surplus residue gas purchased by El Paso at the outlet of the Waddell Plant, Warren has informed El Paso that approximately 25 MMcf daily is attributable to production from wells on land leased by Gulf, *et al.* pursuant to the 50-year fixed term lease. Gulf, *et al.* make percentage-type sales to Warren of casinghead gas produced from the acreage covered by the 50-year fixed term lease. As explained above, the mineral rights, including rights to casinghead gas, presently

[4] The Commission granted certificates of public convenience and necessity authorizing the sale of residue gas to El Paso from the Waddell Gasoline Plant pursuant to Warren's Rate Schedule Nos. 43 and 66 at Docket No. G-13445, 19 F.P.C. 1151 (1958) and Docket No. CI72-760 (issued July 22, 1974).

[5] At the following docket numbers, the Commission granted El Paso certificates of public convenience and necessity for the construction and operation of pipeline and compression facilities needed to transmit gas from the Waddell Gasoline Plant: G-1629, 10 F.P.C. 644 (1951); G-2371, 13 F.P.C. 1008 (1954); G-10499, 16 F.P.C. 1354 (1956); and G-12580, 19 F.P.C. 393 (1958).

[6] By the residue gas purchase agreement dated January 26, 1951, El Paso was entitled to purchase up to 7 MMcf of surplus residue gas each day. By subsequent amendments, El Paso presently has the right to purchase up to 80 MMcf of surplus residue gas each day.

leased to Gulf pursuant to the 50-year fixed term lease revert to the reversionary interest owners, Exxon, *et al.* on July 14, 1975.

El Paso has become aware that certain of the reversionary interest owners comprising a portion of Exxon, *et al.* are soliciting proposals for the purchase of their shares of natural gas produced after July 14, 1975, from the various lands and leases presently leased to Gulf, *et al.* pursuant to the 50-year fixed term lease. El Paso did not receive such solicitations itself but it has obtained a copy of Exxon's solicitation to Odessa Natural Corporation ("Odessa"),[7] dated October 1, 1974,[8] and a copy of Southland's solicitation to Odessa dated November 18, 1974,[9] wherein Southland advises Odessa that Southland, Warren Wright, and Penn (comprising a portion of Exxon, *et al.*) collectively own 80 percent of the 50-year fixed term lease gas and are considering its sale.

[6] By letter dated October 10, 1974, El Paso informed Exxon that El Paso is aware of Exxon's solicitation proposal and shall consider what position El Paso deems necessary to preserve its interest in said gas.[10] Concurrently, El Paso sent to Southland a copy of El Paso's said letter to Exxon and informed South-

[7] Odessa is an intrastate pipeline affiliate of El Paso.

[8] A true copy of this solicitation letter is attached hereto as Exhibit "E" and made a part hereof.

[9] A true copy of this solicitation letter is attached hereto as Exhibit "F" and made a part hereof.

[10] A true copy of this letter is attached herto as Exhibit "G" and made a part hereof.

land that the contents of said letter apply equally to Southland's share of gas.[11]

V.

It can be surmised from both Exxon's and Southland's solicitation offers to Odessa, an intrastate buyer and carrier of natural gas, and Exxon's and Southland's failure to make such offers to El Paso, an interstate pipeline, and from the commonly known large differential in prices between intrastate and interstate purchases of natural gas in west Texas[12] that both Exxon and Southland intend to sell only to an intrastate buyer of gas,[13] thereby diverting said gas from its present movement in interstate commerce to movement in intrastate commerce.

Because the surplus residue gas in question is presently flowing in interstate commerce through El Paso's interstate pipeline system for resale, and is therefore

[11] A true copy of this letter is attached hereto as Exhibit "H" and made a part hereof.

[12] Natural gas intended for transportation and resale in interstate commerce cannot be sold at a rate higher than the national area rate of 51¢ per Mcf plus Btu adjustment and taxes, which is the rate which became effective under Opinion Nos. 699 and 699-H on and after January 1, 1975, for certain classes of "new" gas sales. Gas intended for transportation and resale in intrastate commerce, however, is currently selling in the vicinity of Crane County, Texas, at a rate of $1.30 per Mcf.

[13] Besides Odessa, Lo Vaca Gathering Company and Lone Star Gas Company are intrastate gas transmission companies which own and operate pipelines in the immediate vicinity of the Waddell Gasoline Plant. In addition, Pioneer Natural Gas Company and Texas Utility Fuel Company purchase gas in Crane County, Texas, for use solely within the State of Texas.

subject to the jurisdiction of the Commission, El Paso questions whether Exxon, *et al.* are free to divert such gas to intrastate commerce without prior clarification of the questions raised herein; namely: First, must Gulf, *et al.* obtain abandonment authorization pursuant to Section 7(b) of the Act and Section 154.91(e) of the Regulations in order to effectuate the transfer by reversion to Exxon, *et al.* of the mineral rights under the 50-year fixed [7] term lease? Second, must Exxon, *et al.* obtain prior Commission authorization, particularly abandonment authorization pursuant to Section 7(b), before they may divert sales of surplus residue gas from interstate commerce to intrastate commerce?[14] Finally, must Warren obtain prior Commission authorization before Warren may divert sales of residue gas attributable to casinghead gas produced under the 50-year fixed term lease from El Paso when El Paso transports and resells said gas in interstate commerce.

[14] In Perry R. Bass, 48 F.P.C. 1269 (1972), a producer (Bass) pursuant to terms of a farmout agreement with Shell Oil Company ("Shell") exercised his option to convert his overriding roylaty interest into a 50 percent working interest. Although Shell had been selling all of the natural gas produced from a well to El Paso for resale in interstate commerce, the producer after converting his overriding royalty interest into a working interest sought to sell his 50 percent share of the production to Natural Gas Pipe Line Company ("Natural") also for resale in interstate commerce. El Paso petitioned to the Commission for a declaratory order on the issue of whether Bass without abandonment authorization pursuant to Section 7(b) could divert his 50 percent share of the gas from interstate transmission and resale in interstate commerce by El Paso. By its order issued December 8, 1972, the Commission decided that Bass' prior royalty interest did not make him a seller of natural gas in interstate commerce for resale nor did his conversion from a royalty interest to a working interest; therefore, the producer was free to sell his share of the gas to Natural.

The Commission in Perry R. Bass did not address itself to the issues raised here. In particular, the Commision did not address itself to whether a party in the position of Gulf (i.e., a prior working interest owner) must obtain abandonment authorization before the lessor may "back in" to the working interest. Moreover, the factual situation is so different in this case, when the entire output

It is well established that once natural gas is dedicated to interstate commerce it cannot be removed from interstate commerce without abandonment authorization pursuant to Section 7(b) of the Act.[15] and it is also well established that natural gas is dedicated to interstate commerce, not by contractual arrangements pertaining to it, but by the physical movement of the gas.[16] In the instant case, natural gas, [8] the production of which will revert to Exxon, *et al.* on July 14, 1974, is presently moving in interstate commerce through El Paso's interstate pipeline system. Therefore, such gas should not be removed from interstate commerce without prior Commission clarification of the above issues.

VI.

Wherefore, for the foregoing reasons, El Paso Natural Gas Company hereby respectfully petitions for issuance of declaratory order resolving the following questions:

(i) Given the fact that, according to Texas law, a certain 50-year fixed term lease automatically terminates on July 14, 1975, and the mineral rights

of the wells is proposed to be diverted to intrastate commerce, that the Perry R. Bass decision should not be controlling on any issue raised herein by El Paso.

[15] Sunray Mid-Continent Oil Co. v. FPC, 364 U.S. 137 (1960).

[16] California v. Lo Vaca Gathering Co., 397 U.S. 366 (1965).

thereunder revert to the reversionary interest owners, must Gulf Oil Corporation and other lessees under said certain 50-year fixed term lease, who have been selling gas produced from said lease on a percentage-type basis to Warren Petroleum Corporation for resale in interstate commerce, obtain abandonment authorization pursuant to Section 7(b) of the Natural Gas Act and Section 154.91 of the Commission's Regulations Under the Natural Gas Act in order to cease such sales to El Paso and effectuate the transfer by reversion to Exxon Corporation, Southland Royalty Company, and other reversionary interest owners of the mineral rights under said certain 50-year fixed term lease?

(ii) Given the facts set forth in (i), without prior Commission authorization, may Exxon Corporation, Southland Royalty Company, and other reversionary interests divert natural gas from its present movement in interstate commerce to delivery and sale in intrastate commerce?

(iii) Given the facts set forth in (i), without prior Commission authorization, may Warren Petroleum Corporation reduce its sales in interstate commerce of residue natural gas to El Paso, the present level of which is attributable in part to production from the lease in question?

Respectfully submitted,

EL PASO NATURAL GAS COMPANY

/s/ By WALTER G. HENDERSON
Walter G. Henderson
Assistant Vice President

[9]

G. Scott Cuming
Senior Vice President and General Counsel
Harris S. Wood
Arthur R. Formanek, Jr.
El Paso Natural Gas Company
P. O. Box 1492
El Paso, Texas 79978

C. Frank Reifsnyder
Hogan & Hartson
815 Connecticut Avenue
Washington, D. C. 20006

Counsel for

EL PASO NATURAL GAS COMPANY

Dated: January 17, 1975

[10]

(VERIFICATION OMITTED IN PRINTING)

• • • • • • • • • • •

[11]

(CERTIFICATE OF SERVICE OMITTED IN PRINTING)

• • • • • • • • • • •

[12]

UNITED STATES OF AMERICA
BEFORE THE FEDERAL POWER COMMISSION

Docket No. CP75-209

EL PASO NATURAL GAS COMPANY

(January , 1975)

Notice of Petition for a Declaratory Order

Take notice that on January , 1975, El Paso Natural Gas Company ("El Paso"), a Delaware corporation, whose mailing address is Post Office Box 1492, El Paso, Texas, 79978, filed at Docket No. CP75— pursuant to Section 1.7(c) of the Commission's Rules of Practice and Procedure a petition for issuance of a declaratory order resolving certain questions and removing certain uncertainties in connection with the expiration of a 50-year fixed term lease currently held by Gulf Oil Corporation which will expire on July 14, 1975.

The petition states that on July 14, 1925, Gulf Production Company, the corporate predecessor of Gulf Oil Corporation ("Gulf"), as lessee, executed a 50-year fixed term oil and gas lease with W. N. Waddell, *et al.*, lessors. By the terms of said 50-year fixed term lease, Gulf obtained the exclusive right of exploiting 45,771 acres of land in Crane County, Texas, and producing oil and gas therefrom, and has con-

tinuously conducted operations thereupon to the present date. By the terms of said 50-year fixed term lease, the leasehold estate expires fifty years after date of execution, which is July 14, 1975, whereupon the mineral rights, including the rights to natural gas production, shall revert to the reversionary mineral interest owners.

The petition further states that Gulf and other leasehold interest owners of said 50-year fixed term lease make percentage-type sales to Warren Petroleum Corporation ("Warren"), a division of Gulf, of certain quantities of casinghead gas produced from the acreage covered by the said 50-year fixed term lease. On January 26, 1951, El Paso, as buyer, and Gulf, as seller, executed a residue gas purchase agreement by which El Paso agreed to buy surplus residue gas from Gulf's natural gasoline extraction plant in Crane County, Texas, called the Waddell Gasoline Plant. On March 1, 1972, El Paso and Warren entered into an additional residue gas purchase agreement concerning certain quantities of residue gas from the Waddell Gasoline Plant. Pursuant to these gas purchase contracts, El Paso takes delivery of approximately 60 MMcf daily of surplus residue gas into its pipeline system at the outlet at the Waddell Gasoline Plant and transports it through its jurisdictional facilities for subsequent resale in interstate commerce. Warren has informed El Paso that approximately 25 MMcf daily of such surplus residue gas is attributable to production from wells on land leased by Gulf and other leasehold interest owners to El Paso pursuant to the said 50-year fixed term lease.

[13] The petition further states that El Paso has become aware that Exxon Corporation and Southland Royalty Company, comprising a portion of the reversionary interest owners are soliciting proposals from intrastate gas transmission companies for the purchase of their shares of natural gas produced after July 14, 1975, from the acreage covered by said 50-year fixed term lease. Southland Royalty Company also is soliciting on behalf of Warren Wright and Penn and, collectively, Southland Royalty Company, Warren Wright and Penn own 80 percent of the 50-year fixed term lease gas.

Therefore, El Paso is petitioning the Commission for a declaratory order resolving the following questions: (i) Given the fact that, according to Texas law, a certain 50-year fixed term lease automatically terminates on July 14, 1975, and the mineral rights thereunder revert to the reversionary interest owners, must Gulf Oil Corporation and other lessees under said certain 50-year fixed term lease, who have been selling gas produced from said lease on a percentage-type basis to Warren Petroleum Corporation for resale in interstate commerce, obtain abandonment authorization pursuant to Section 7(b) of the Natural Gas Act and Section 154.91 of the Commission's Regulations Under the Natural Gas Act in order to cease such sales to El Paso and effectuate the transfer by reversion to Exxon Corporation, Southland Royalty Company, and other reversionary interest owners of the mineral rights under said certain 50-year fixed term lease? (ii) Given the facts set forth in (i), without prior Commission authorization, may Exxon Corporation, Southland Royalty

Company, and other reversionary interests divert natural gas from its present movement in interstate commerce to delivery and sale in intrastate commerce? (iii) Given the facts set forth in (i), without prior Commission authorization, may Warren Petroleum Corporation reduce its sales in interstate commerce of residue natural gas to El Paso, the present level of which is attributable in part to production from the lease in question?

Any person desiring to be heard or to make any protest with reference to said application should, on or before ————, 1975, file with the Federal Power Commission, Washington, D. C., 20426, a petition to intervene, an answer, or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR Sections 1.8-1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

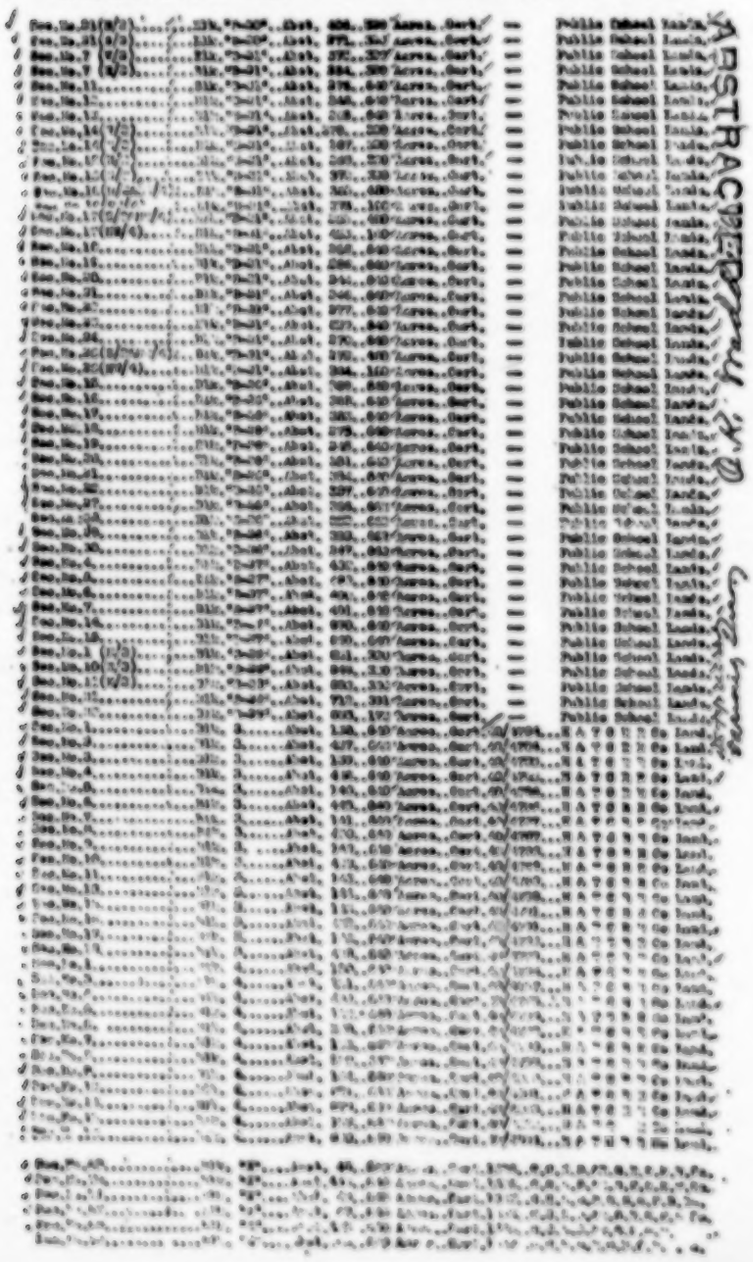
Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Section 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this petition if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that issuance of the de-

claratory order is required by the public convenience and necessity. If a petition for leave [14] to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

KENNETH F. PLUMB
Secretary

Docket No. CP75-____
Exhibit "A"
Page 1 of 6

OIL AND GAS LEASE



BEST COPY AVAILABLE

It is agreed that for the purpose of calculating rentals, both before and after partial surrender, as hereinafter provided, the leased tract contains Forty-Five Thousand, Seven Hundred 7. (45,77[illegible]) acres; nevertheless, all of the above described lands is embraced in this lease, be it more or less.

Par. 2. TO HAVE AND TO HOLD unto said Lessee and to Lessee's successors and assigns for the term of Twelve (12) years from the date hereof and as much longer thereafter as oil or gas (or other minerals, if produced hereunder) are produced from said land. Provided, that this lease shall not remain in force longer than fifty (50) years from this date, and provided further, that a temporary cessation of production due to cleaning out, washing over or drilling deeper of any well, or similar causes complied after production secured, shall not terminate this lease. And Lessor covenants that Lessor has good title to said land and will protect Lessee in the quiet and peaceable possession thereof.

Par. 3. Lessee agrees to begin operations for the drilling of a well on the premises within twelve (12) months from the date hereof, or, failing so to do, Lessee agrees to pay in the manner below stated for each six (6) months' period for which such drilling is delayed, not to exceed eighteen (18) such periods, the sum of ---$5,721.37--- Dollars, such payment to be made on or before the beginning of each such period and shall be made by paying the same to the Lessor in person or to the ---- First National ---- Bank of Ft. Worth, ---------- , Texas, or Lessee may mail Lessee's check to Lessor in said sum in care of said Bank, payable to Lessor, said Bank being hereby constituted Lessor's agent to receive said funds for Lessor or to receive and deliver said check to said Lessor, as the case may be; in either of the three methods of making such payment Lessee may use Lessee's check and the mailing of said check shall be deemed making payment; if Lessee shall fail to make such payment in advance as above provided, and such failure or default shall continue for thirty (30) days after the due date of such payment, Lessor shall have the right to forfeit this lease.

Par. 4. In the case of change of ownership of the land hereby leased, or some part thereof, whether by descent and partition, devise, conveyance or otherwise, the above designated Bank shall become the Trustee for all the owners to receive and distribute the rentals coming them, and the payment of the rentals to such Bank shall prevent forfeiture of the lease. In all cases where the original depositary Bank shall refuse to receive payment of rentals, or should go out of business, or consolidate with another Bank, the Lessor, or successors in interest, shall have the right to designate in writing some Bank as Trustee, and until such designation is made and Lessee notified in writing such rentals shall not be due; and no forfeiture of this lease can be declared if such rental is paid within thirty (30) days after receipt of such notice by Lessee.

Par. 5. If while this lease is in force as herein provided, Lessee shall have begun operations in attempt to find oil or gas, then, without making any further payments Lessee may continue such attempt, and may make as many attempts as Lessee pleases; but if Lessee shall abandon such attempts for ninety (90) days without finding oil or gas in paying quantities, Lessee shall resume payment of the rentals falling due after the completion or abandonment of such well, at the next ensuing rental period beginning after such completion or abandonment; provided Lessee shall have at least ninety (90) days from the date of such abandonment of operations in which to make such payment and on resuming payment of rentals Lessee shall have the right to continue making the same or of beginning operations for the drilling of a well and to alternate such rights.

Par. 6. If operations shall not be begun on or before the expiration of ten (10) years from this date, this lease shall wholly terminate, but if, prior to the termination of such ten years, Lessee shall have begun operations in attempt to find oil or gas and is engaged in such operations at the end of the ten-year period, then Lessee shall have the right to continue such operations and also to make as many additional attempts to find oil or gas as Lessee desires beyond the expiration of said ten-years period; provided, however, that these attempts or extending such rights beyond such ten years must be successful in the sense that, until oil or gas be found in paying quantities, not more than sixty (60) days shall elapse between the abandonment of such an one well and the beginning of operations on another, and provided further that the right to make attempts before the discovery of oil or gas shall not continue in any event longer than twelve (12) years from the date hereof.

-- 5

SECTION 2.

Paragraph 1. If oil shall be found on said premises Lessee shall deliver as royalty to Lessor, free of expense, one-eighth (1/8) part of the oil saved from that produced, after deducting such part as may be used for drilling and operating on the Land and treating the oil or gas so as to make it merchantable; such delivery to be made either into tanks supplied by Lessee with connections by Lessee provided, or into any pipe line that may be connected with the well; or Lessee may, at Lessee's option, buy such royalty oil, paying the current market price in the field at the time of production. (If Lessee shall operate so as to save and utilize casinghead gas from said premises, then Lessee shall pay as royalty to Lessor one-eighth (1/8) part of the value of such gas, calculated at the rate of four (4) cents per one thousand (1,000) cubic feet of the casinghead gas, calculated as to quantity to be made on the basis of four (4) ounces pressure above atmospheric pressure at the temperature of sixty (60) degrees Fahrenheit, as royalty on such casinghead gas, and such royalty payment to each six months' period, beginning from the date hereof, to be paid within thirty (30) days after expiration of each period. If any well on said premises shall produce natural gas in paying quantities, and such natural gas is used off the premises or marketed by Lessee, then Lessor shall be paid at the rate of Two Hundred ($200.00) Dollars per annum for each and every such well, such payment to be made on or before the end of each such year in which such well is brought in.)

Par. 2. If, as result of any explorations under this contract any other minerals than oil or gas shall be found in quantities deemed by the Lessee to be paying, then Lessee shall have the optional right to mine for and produce the same, paying to the Lessor what, under all the circumstances, may be a reasonable royalty.

Par. 3. All money royalties may be paid to Lessor as provided in Paragraph 3 of Section 1 hereof. Should the interest owned by Lessor in said land prove to be less than the whole, the royalties and rentals to be paid hereunder shall be paid to the Lessor in proportion only that Lessor's interest is to the entire interest or whole.

SECTION 3.

Paragraph 1. It is agreed that, without the valid written consent of both parties hereto, no well shall be drilled, no shaft sunk, and no mining operations of any kind shall be carried on, within two hundred (200) feet of any dwelling houses now on said premises, and that the use of the surface of the land is hereby granted only so far as may be necessary or proper and convenient for the exercise of the rights herein granted.

SECTION 4.

Paragraph 1. The obligation of Lessee with respect to drilling offset wells shall be to drill such offset wells as a prudent, responsible operator would drill under the same conditions if he owned the land hereby leased, subject to the following provisions, to-wit: When an offset well is demandable under the above provisions, the Lessee shall have the option of either drilling such offset well or of paying a royalty with respect thereto calculated as follows--take the well, as to which an offset is demanded, as a center; transcribe a circle around it with a radius of three hundred feet; ascertain what proportion of the area of such circle falls within this lease; such proportion shall be the proportion of royalty which shall be paid on the production of the well as to which an offset is demandable; thus, if that portion of the area of the circle included in this lease is one-fourth of the total area, then one-fourth of the royalty which would be payable on the well to be offset if the same was on this lease shall be paid; Provided, that no well need be offset when there is a well practically or nearly between it and the line of this lease and such intier well has been offset, or royalty paid with respect thereto; Provided, further, if the Lessee so elects, an offset well may be drilled at any time, even after royalties have been paid, and, from the beginning of such well, no royalty shall be paid with respect to the well to be offset. Such royalty shall be a money totality determined by the market value of the oil when produced. This provision shall also apply to gas wells provided the gas is marketable at the time and place.

SECTION 5.

Paragraph 1. Lessee further agrees to pay the actual cash value, at the time of destruction, of any growing crops destroyed on said leased premises by operations hereunder, or the reasonable damage to any such crops caused by such operations.

SECTION 6.

Paragraph 1. Lessee may pay off any lien or taxes now or hereafter due on or against said land; and if Lessee does so, Lessee shall be subrogated to all the rights of the holder of such lien or tax debt, and shall have a lien on all rentals and royalties accruing hereunder for reimbursement.

SECTION 7.

Paragraph 1. When drilling or other operations are delayed or interrupted by storm, flood, or other act of God, by fire, war, rebellion, scarcity of water, insurrection, riots, strikes, scarcity of labor, difficulties with employees, or failure of carriers to transport or furnish facilities for transportation, or as the result of some order, requisition or necessity of the Government, or as the result of any cause whatsoever beyond the control of the Lessee, the time of such delay or interruption shall not be counted against the Lessee--anything in this lease to the contrary notwithstanding.

SECTION 8.

Paragraph 1. Lessee is hereby given the right to surrender this lease at any time as to all or any part of the land hereby leased upon paying to the Lessor ---------- ---- cents per acre for each acre surrendered in addition to any sums that may be then due and accrued under the terms hereof, in the manner provided in Paragraph 3 of Section 1 hereof, and upon making such surrender the Lessee shall thereupon be released from all further payments, liabilities, or obligations as respects the land surrendered, and the rentals provided for in Paragraph 3 of Section 1 hereof shall be reduced by the proportion of acreage surrendered to the whole.

SECTION 9.

Paragraph 1. It is further agreed that all the conditions and terms herein shall extend to the heirs, executors, legal representatives, successors in interest and assigns of the parties hereto; but no change of ownership of the land, or part thereof, shall impose any additional obligation or burden on the Lessee, and to that end Lessor hereby covenants for herself, her heirs, assigns and successors in interest, that in case of any change of ownership of said land, or part thereof, whether by conveyance, devise, inheritance, partition, or otherwise, all rentals and royalties accruing hereunder shall be paid to the new owners as long as the Lessee has not been furnished with a recorded transfer of said land or part thereof, and no change in the ownership of the land or the right to receive royalties or rentals shall be binding upon the Lessee until the Lessee has been furnished with a certified copy of the recorded instrument, but such payments may be made to such part of such royalty or rentals as may be due to the whole acreage contained in this lease, the payment shall be taken and construed as a compliance with the terms hereof and in accordance with the ownership of the land and binding on all successors in interest of Lessor hereto. The Lessee shall not be held responsible for the payment of such rentals or royalties to such new owners until the same have been furnished with a certified copy of the recorded instrument, and in case of any transfer of the leasehold estate or of any part thereof, or of any interest in the rentals or royalties hereunder, the Lessee shall be furnished with a transfer or transfers, or certified copies thereof

Docket No. CP75-___
Exhibit "A"
Page 4 of 6

6

Par. 9. It is further agreed that in case of change of ownership of any of the land, or of this leasehold, that the rentals shall be apportioned in accordance with the acreage each tract bears or assigned because entitled to.

Par. 8. It is further agreed that any rentals paid and received hereunder shall constitute a consideration, and only for the day in dollars the well had for whether the right to pay future rentals to keep the lease in full force and effect would do thing in consideration, and any such rentals ... paid shall be deemed and considered as adequate consideration for all the rights hereby granted. ... Par. 1. ... the event of any of the land d ... ribed being classified as mineral and the State of Texas is due its part of the Oil & Gas Royalty above provided for, then it is agreed that Lessee herein shall deduct and pay the State of Texas its prorata part of the royalties to which it may be entitled under such ...ade and provided in the event of the production of oil or gas from any of the lands containing such mineral classification, said lessee is also authorized to deduct from the ... Bonus to be paid for this le... the 10¢ per acre Annual Rental due the State under this lease, and thereafter deduct from the ...al or Delay Payments provided for herein the Annual Rental due the State. In the event it develops that all or any part of the acreage herein leased is subject to the Mineral Classification then Lessors execute this instrument in their individual capacities and as Agents for the State of Texas which they are authorized to do under the Acts governing the leasing of lands with Mineral Classification.

6-12: Paragraph 1. Lessee has this day paid to Lessor the sum of Twenty-Two Thousand, Eight Hundred and Eighty-Five and 50/100- - - - - - - - - - - - - - - ($22,885.50---) DOLLARS, the receipt of which is hereby acknowledged, which payment is received in full payment and satisfaction and is deemed sufficient consideration for each and every right hereby granted. It is stipulated and agreed that this instrument embraces the entire contract between the parties, and that no promises or representations of any kind not embraced herein have been made to induce the execution of this contract.

IN TESTIMONY WHEREOF the parties hereto have duly executed this instrument, on this the 17th ... day of ... A. D. 1935, the parties hereto acting in person or by duly authorized agent.

Witness:

E. N. Woodall
E. E. Woodall
E. K. Bowman
Madge Bowman
F. E. Woodall

Lessor.

GULF PRODUCTION COMPANY,
Lessee.
By Glen Garrett
Agent.

ACKNOWLEDGMENTS

THE STATE OF TEXAS, } Before me, the undersigned authority
County of TARRANT }

a Notary Public in and for the County of TARRANT and State of Texas, on this day personally appeared W.W. WARNELL

known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office on this the 17th day of JULY, A. D. 1935.

C. C. Patterson, Jr.
Notary Public,
in and for TARRANT County, Texas.

THE STATE OF TEXAS, } Before me, the undersigned authority
County of TARRANT }

a Notary Public in and for the County of TARRANT and State of Texas, on this day personally appeared Glen Garrett known to me to be the person whose name is subscribed to the foregoing instrument as Agent of Gulf Production Company, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and as the act and deed of said Gulf Production Company.

Given under my hand and seal of office on this the 20th day of JULY, A. D. 1935.

M. M. Patterson
Notary Public,
in and for TARRANT County, Texas.

THE STATE OF TEXAS, } Before me, the undersigned authority
County of TARRANT }

a Notary Public in and for the County of TARRANT and State of Texas, on this day personally appeared EVA WARNELL, wife of W.W. WARNELL, known to me to be the person whose name is subscribed to the foregoing instrument and having been examined by me privily and apart from her husband, and having the same fully explained to her, the said EVA WARNELL ... she had willingly signed the same for the purposes and consideration therein expressed, and that she did not wish to retract it.

Given under my hand and seal of office on the 19th day of JULY, A. D. 1935.

C. C. Patterson, Jr.

6

GULF PRODUCTION CO.
P. O. DRAWER 737
LAND DEPT.
FORT WORTH, TEXAS

GULF PRODUCTION CO.
Post Office address of Lessee: Fort Worth, Texas

OIL AND GAS LEASE
TEXAS

No. 10952
10952

TO

Recorded this the 29th day of July A.D. 1935, at 2 o'clock P.M.
in Book 10 Page 397
Deed Records of Crane County, Texas.
By Glen Garrett Deputy.
County Clerk.

Filed for Record this the 29th day of July A.D. 1935, at 2 o'clock P.M.
By Glen Garrett Deputy.
County Clerk.

THE STATE OF TEXAS:
COUNTY OF CRANE : BEFORE ME, the undersigned authority, a notary public, in and for the County and State aforesaid, on this day personally appeared E.K.BOWMAN and Wife, MADGE BOWMAN, known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and consideration therein expressed, and the said MADGE BOWMAN, wife of the said E.K.BOWMAN, having been examined by me privily and apart from her husband, and having the same fully explained to her, she, the said MADGE BOWMAN acknowledged such instrument to be her act and deed, and declared that she had willingly signed the same for the purposes and consideration therein expressed, and that she did not wish to retract it.
GIVEN UNDER MY HAND and seal of office on this the 17 day of JULY, A. D. 1935.

Ceal Cabin, County Clerk,
Notary Public in and for CRANE COUNTY, Texas.
By Mrs. Ceal Cabin, Deputy.

THE STATE OF TEXAS:
COUNTY OF CRANE : BEFORE ME, the undersigned authority, a notary public in and for the County and State aforesaid, on this day personally appeared F.E.WOODALL, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.
GIVEN UNDER MY HAND and seal of office on this the 17th day of JULY, A.D.1935.

C. C. Patterson, Jr.
Notary Public in and for CRANE County, Texas.

[20]

Docket No. CP75-____
Exhibit "A"
Page 6 of 6

2

2

1 Lease
10 Gulf
Oil & Gas & Minerals Assn
W. W. Blakeslee et al
To
Gulf Production Co.
Assignment

This is original
recorded Lease: do
not take from file.
use Photo copy.
DO NOT MUTILATE
THIS INSTRUMENT.

[21]

Docket No. CP75——
EXHIBIT "B"
Page 1 of 5

THE STATE OF TEXAS:
COUNTY OF TARRANT:

WHEREAS, on July Fourteenth, A.D. 1925, W. N. Waddell and wife, Ella Waddell, of Fort Worth, Tarrant County, Texas, E. K. Bowman and wife, Madge Bowman and F. E. Waddell of Crane County, Texas, as Lessors, made, executed and delivered unto the GULF PRODUCTION COMPANY, as Lessee, an Oil, Gas & Mineral Lease covering Forty-five Thousand, Seven Hundred and Seventy-one (45,771) acres of land, more or less, in Crane County, Texas, and which lease is duly recorded in Volume No. 10, at Page 397 et seq. of the Crane County deed records, to which lease and the record thereof reference is here made; and

WHEREAS, by instrument of even date herewith, the said GULF PRODUCTION COMPANY, at the special instance and request of the above named lessors, has sold, transferred and conveyed said above described lease and leasehold estate, and all the rights therein conveyed and secured, unto Wm Blakeslee of Travis County, Texas, insofar only as said lease and leasehold relates to and effects Section Sixty-eight (68), in Block "X", C. C. S. D. & R. G. N. G. R. R. Co. Lands, Certificate No. 1335, Abstract No. 425, containing Six Hundred and Forty (640) Acres of land, more or less, in Crane County, Texas, with the understanding and agreement that the undersigned Lessors would substitute for said Section Sixty-eight (68) so assigned to said Wm Blakeslee, and bring under the

terms of said mineral lease aforesaid what is known as Survey Number Thirteen (13) in Block Two (2), H. & T. C. R. R. Co. Lands, Certificate No. 40/4773, Abstract No. 127, containing Six Hundred and Forty (640) Acres, more or less, in Crane County, Texas, the same as though said Survey Number Thirteen (13) had also been originally embraced and included in said mineral lease.

NOW THEREFORE, Know All Men by These Presents, that we, W. N. Waddell and wife, Ella Waddell, E. K. Bowman and wife, Madge Bowman and F. E. Waddell, a single man, in consideration of the premises, and the further sum of Ten and No/100 ($10.00) Dollars to us in hand paid by the GULF PRODUCTION COMPANY, the receipt of which is hereby acknowledged, have demised, leased and let, and do by these presents demise, lease and let unto the said GULF PRODUCTION COMPANY, a Texas Corporation, Survey Number Thirteen (13), in Block Number Two (2), H. & T. C. R. R. Co. Lands, Certificate No. 40/4773, Abstract No. 127,

[22]

Docket No. CP75——
EXHIBIT "B"
Page 2 of 5

containing Six Hundred and Forty (640) Acres of land, more or less in Crane County, Texas, for the purposes, and under the terms and conditions, as set forth in the Mineral Lease referred to above, as having been executed by us on July 14th, 1925, and recorded in Volume No. 10, at Page No. 397 et seq. of the Crane County deed records, the same as though said Survey Number Thirteen (13), Block Two (2), has been originally embraced in said mineral lease.

TO HAVE AND TO HOLD unto the said GULF PRODUCTION COMPANY, Lessee herein, its successors and assigns, upon the same terms and conditions of the Mineral Lease above mentioned, and the said Survey Number Thirteen (13), in Block Two (2), herein more fully described, is by this instrument brought under the terms of said original lease aforesaid, and shall be considered as part of, and included within said original lease, and in all respects subject to its terms, conditions and provisions, the same as though originally incorporated therein; and the said original lease shall remain in full force and effect, unchanged and unaltered by this instrument, with the exception however, that the total acreage embraced therein shall now be considered as Forty-six Thousand, Four Hundred and Eleven (46,411) Acres of land, more or less, and that the amount of rental now due and payable under the terms of said Mineral Lease Contract shall be a total of Five Thousand, Eight Hundred and One and 37/100 ($5,801.37) Dollars, for each Six (6) Months extension, instead of Five Thousand, Seven Hundred and Twenty-one and 37/100 ($5,721.37) Dollars, as said Lease Contract now provides.

IN TESTIMONY WHEREOF We have duly executed this instrument on the 16th day of March, A. D. 1926.

/s/ W. N. WADDELL
/s/ ELLA WADDELL
/s/ E. K. BOWMAN
/s/ MADGE BOWMAN
/s/ F. E. WADDELL
LESSORS.

GULF PRODUCTION COMPANY, LESSEE
By /s/ FRED O. OBERWETTER
Agent.

[23]

Docket No. CP75——
EXHIBIT "B"
Page 3 of 5

THE STATE OF TEXAS:
COUNTY OF TARRANT:

BEFORE ME, the undersigned authority, a Notary Public in and for the County and State aforesaid, on this day personally appeared W. N. WADDELL AND Wife, ELLA WADDELL, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes and consideration therein expressed, and the said ELLA WADDELL, wife of the said W. N. Waddell, having been examined by me privily and apart from her husband, and having the same by me fully explained to her, she the said ELLA WADDELL acknowledged such instrument to be her act and deed, and declared that she had willingly signed the same for the purposes and consideration therein expressed and that she did not wish to retract it.

GIVEN UNDER MY HAND and seal of office on this the 10th day of May, AD 1926.

/s/ CARA CHILES
Notary Public in and for Tarrant County, Texas.

THE STATE OF TEXAS:
COUNTY OF ECTOR:

BEFORE ME, the undersigned authority, in and for the County and State aforesaid, on this day personally appeared E. K. BOWMAN and Wife, MADGE BOWMAN, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes and consideration therein expressed, and the said MADGE BOWMAN, wife of the said E. K. Bowman, having been examined by me privily and apart from her husband, and having the same by me fully explained to her, she the said MADGE BOWMAN, acknowledged such instrument to be her act and deed and declared that she had willingly signed the same for the purposes and consideration therein expressed and that she did not wish to retract it.

GIVEN UNDER MY HAND and seal of office on this the 8th day of May, AD 1926.

/s/ CARL AKERS, County Clerk
in and for Ector County, Texas.

THE STATE OF TEXAS:
COUNTY OF ECTOR:

BEFORE ME, the undersigned authority, in and for the County and State aforesaid, on this day personally appeared F. E. WADDELL, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND and seal of office on this the 22nd day of March AD 1926.

/s/ CARL AKERS, County Clerk
in and for Ector County, Texas.

THE STATE OF TEXAS:
COUNTY OF TARRANT:

BEFORE ME, the undersigned authority, a Notary Public in and for the County and State aforesaid, on this day personally appeared FRED O. OBERWETTER, known to me to be the person whose name is subscribed to the foregoing instrument as AGENT for GULF PRODUCTION COMPANY, and acknowledged to me that he executed the same for the purposes and consideration therein expressed and as the act and deed of said GULF PRODUCTION COMPANY.

GIVEN UNDER MY HAND and seal of office on this the 10th day of May AD 1926.

/s/ M. A. McDONALD
Notary Public in and for Tarrant County, Texas.

Docket No. CP75-___
Exhibit "B"
Page 4 of 5

THE STATE OF TEXAS,
County of Baton } I, Carl Atkin, Clerk of the County Court of said County, do hereby certify that the above instrument of writing, dated on the 16th day of May, 1926, with its Certificate of Authentication, was filed for record in my office, this 11th day of May, 1926, at 1:45 o'clock P. M., and duly recorded this 12th day of May, 1926, at 12 o'clock M., in the Record of Crane County, in Vol 12, on page 5, 205-206

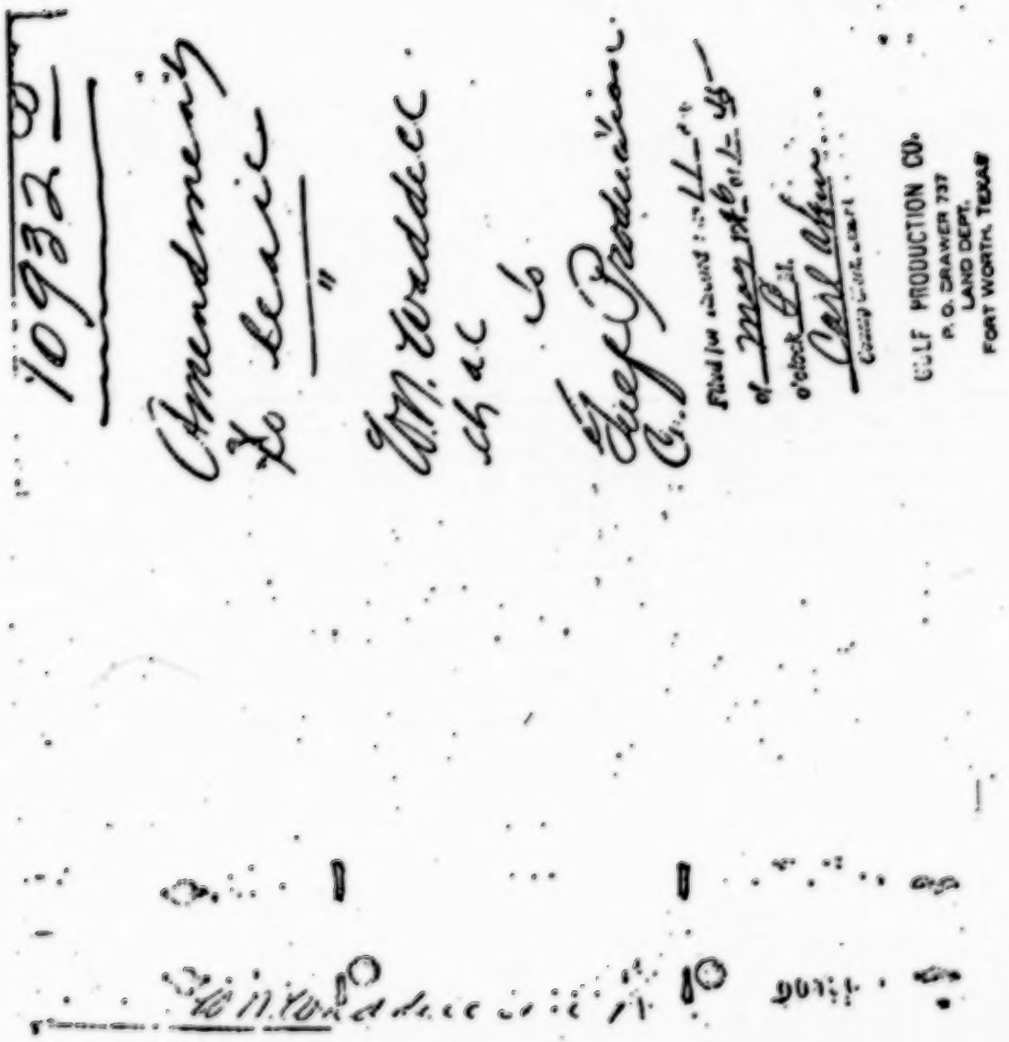
WITNESS my hand and the seal of the County Court of said County, at office in Crane, Texas, the day and year last above written.

Carl Atkin
Clerk C. C. Texas
By Mrs. Ida Webb Deputy.

12

[25]

Docket No. CP75-____
Exhibit "B"
Page 5 of 5



[26]

Docket No. CP75-____
EXHIBIT "C"
Page 1 of 9

EL PASO NATURAL GAS COMPANY

OWNERS OF THE REVERSIONARY MINERAL INTEREST RIGHTS TO THE OIL, GAS, AND OTHER MINERALS PRODUCED FROM THE ACREAGE COVERED BY THE 50-YEAR FIXED TERM LEASE

According to El Paso's information and belief, the following list of individuals and corporations are owners of the reversionary mineral interest rights to the oil, gas, and other minerals produced from the acreage covered by the 50-year fixed term lease. This list is the same as the list of defendants in Plaintiffs' Original Petition in *Gulf Oil Corporation* v. *Southland Royalty*, 496 S.W. 2d 547 (1973).

(1) Southland Royalty Company, a Delaware corporation, with the C T Corporation System, Republic National Bank Building, Dallas, Texas, as its agent for service.

(2) Exxon Corporation, a Delaware corporation, with L. J. Weigle, 800 Bell Avenue, Houston, Texas, as its agent for service.

(3) Gertrude Goldberg, Trustee of the Myron D. Goldberg Residuary Trust, a resident of Chicago, Cook County, Illinois; and Harris Trust and Savings Bank, Trustee of Myron D. Goldberg Residuary Trust, a corporation, with an office and place of business at 111 West Monroe Street, Chicago, Illinois.

(4) B. B. Stone, a resident of Tarrant County, Texas, whose address is 625 Fort Worth National Bank Building, Fort Worth, Texas.

(5) Mary Alice Wade, a widow, a resident of Potter County, Texas, whose address is 37 Oldham Circle, Amarillo, Texas.

(6) Dorothy Bryan Galbreath, a resident of the State of Ohio, whose address is 100 East Broad Street, Columbus, Ohio.

(7) The Fort Worth National Bank of Fort Worth, Texas, as Executor of the Estate of B. L. Agerton, Deceased, and as Trustee under the Will of B. L. Agerton, Deceased, a national banking association with its principal office and agent for service of process at the Fort Worth National Bank Building, Fort Worth, Texas. Administration on the Estate of B. L. Agerton, Deceased, is still open and pending.

(8) Ed Wagner and wife, Ruth Wagner, residents of Tarrant County, Texas, whose address is 3415 Dorothy Lane South, Fort Worth, Texas.

(9) Gid J. Bryan, a resident of Dallas County, Texas, whose address is 3436 Normandy, Dallas, Texas.

(10) Ruth Daggett, a resident of Tarrant County, Texas, whose address is 1936 Hurley, Fort Worth, Texas.

[27]

Docket No. CP75——
EXHIBIT "C"
Page 2 of 9

(11) Alonzo Monk Bryan, a resident of the State of Missouri, whose address is 1103 Sunset Drive, Columbia, Missouri.

(12) Georgia Lee, a resident of Tarrant County, Texas, whose address is 1504 North Riverside Drive, Fort Worth, Texas.

(13) W. D. Bryan, a resident of Tarrant County, Texas, whose address is 3815 Crestline Road, Fort Worth, Texas.

(14) Virginia K. Smith, Individually, and as Independent Executrix of the Estate of Hugh B. Smith, Deceased, a resident of Tarrant County Texas, whose address is 312 North Bailey, Fort Worth, Texas. Administration on the Estate of Hugh B. Smith, Deceased, is still open and pending.

(15) Lucille P. Markey, Warren Wright, Jr., Gene Markey, Edwin S. Ford, and the First National Bank of Chicago, Illinois, Trustees under the Will of Warren Wright, Deceased, with the First National Bank of Chicago being a national banking association and having an office and agent for service in the First National Bank of Chicago, Illinois, and with the remainder of said Trustees being residents of the State of Illinois, whose addresses are One North La Salle Street, Room 1809, Chicago, Illinois.

(16) Mrs. Ella Alluisi, a resident of the State of California, whose address is 1228 Martin Road, Santa Cruz, California.

(17) Mrs. Jesse Andrews, a resident of Harris County, Texas, whose address is c/o Baker, Botts, Shepherd and Coates, 1600 Esperson Building, Houston, Texas.

(18) James A. Baker, Jr., a resident of Harris County, Texas, whose address is 1404 Dunlavy, Houston, Texas.

(20) W. Browne Baker, a resident of Harris County, Texas, whose address is 637 Capital National Bank Building, Houston, Texas.

(21) The First City National Bank of New York, Executor of the Estate of Lindsay Bradford, Deceased, a national banking association, with an office and agent for service in the First National City Bank, 20 Exchange Place, New York, New York. Administration on the Estate of Lindsay Bradford, Deceased, is still open and pending.

(22) Zenaide V. Bradley, Executrix of the Estate of Walter Bradley, Deceased, a resident of the State of New Hampshire, whose address is Far Away Farm, Whitefield, New Hampshire. Administration on the Estate of Walter Bradley, Deceased, is still open and pending.

(23) The First National City Trust Company, Trustee under the Will of G. G. Browne, Deceased, a national banking association, with an office and agent for service at the First National City Trust Company, 22 William Street, New York, New York.

(24) Junius H. Browne, a resident of the State of California, whose address is 24 Ralston Road, Atherton, California.

[28]

(25) Mrs. John P. Bullington, Individually, and as Independent Executrix of the Estate of John P. Bullington, Deceased, a resident of the State of New York, whose address is c/o United States Trust Company, 45 Wall Street, New York, New York. Administration on the Estate of John P. Bullington, Deceased, is still open and pending.

(26) Francis G. Coates, a resident of Harris County, Texas, whose address is c/o Baker, Botts, Shepherd and Coates, 1600 Esperson Building, Houston, Texas.

(27) Mrs. Ann M. Cole, a resident of Harris County, Texas, whose address is 3235 Ella Lee Lane, Houston, Texas.

(28) Mrs. Margaret M. Peabody, a resident of the State of New York, whose address is 635 Madison Avenue, New York, New York.

(29) Mrs. Justin A. Eaton, a resident of the State of New York, whose address is c/o First National City Bank, c/o#535942, 399 Park Avenue, New York, New York.

(30) Mrs. Margaret V. (Ellis) Braatz, a resident of the State of New Jersey, whose address is 14 Glenside Road, South Orange, New Jersey.

(31) Mrs. Jean Ferry, a resident of the State of New York, whose address is c/o City Bank Farmers Trust Company, 22 William Street, New York, New York.

(32) Mrs. Edna Foreman, a resident of Polk County, Texas, whose address is Livingston, Texas.

(33) Gaius G. Gannon, Jr., Executor of the Estate of Gaius G. Gannon, Deceased, a resident of Harris County, Texas, whose address is 2151 Troon Road,

Houston Texas. Administration on the Estate of Gaius G. Gannon, Deceased, is still open and pending.

(34) Palmer Hutcheson, a resident of Harris County, Texas, whose address is c/o Hutcheson, Taliferro and Hutcheson, 2110 Tennessee Building, Houston, Texas.

(35) Mrs. Alice Baker Jones, a resident of Harris County, Texas, whose address is 1213 Berthea, Houston, Texas.

(36) H. Malcolm Lovett, a resident of Harris County, Texas, whose address is c/o Baker, Botts, Shepherd and Coates, 1600 Esperson Building, Houston, Texas.

(37) L. R. Mason, a resident of the State of New York, whose address is 666 Fifth Avenue, New York, New York.

(38) John I. Moore, a resident of Tom Green County, Texas, whose address is San Angelo, Texas.

(39) F. H. McGuigan, Trustee under the Will of P. D. Moore, Deceased, a resident of Midland County, Texas, whose address is 2009 Community Lane, Midland, Texas.

(40) Mrs. Ruth Baker Moore, a resident of Harris County, Texas, whose address is 6054 Riverview Way, Houston, Texas.

(41) Charles William Morgan, a resident of the State of New York, whose address is Jackson Street, Box 95, New Suffolk, Long Island, New York.

[29]

Docket No. CP75——
EXHIBIT "C"
Page 4 of 9

(42) Robert U. Parish, a resident of Harris County, Texas, whose address is 5922 Valley Forge, Houston, Texas.

(43) Mrs. Sarah Scurry, a resident of Harris County, Texas, whose address is c/o Baker, Botts, Shepherd and Coates, 1600 Esperson Building, Houston, Texas.

(44) Helga Shepherd, Executrix of the Estate of James L. Shepherd, Jr., Deceased a resident of Harris County, Texas, whose address is 2105 Brentwood Drive, Houston, Texas. Administration on the Estate of James L. Shepherd, Jr., Deceased, is still open and pending.

(45) B. A. Tompkins, a resident of the State of New York, whose address is 551 Fifth Avenue, New York, New York.

(46) H. Leland Vaughan, Independent Executor and Trustee of the Estate of Mrs. Adele S. Vaughan, Deceased a resident of the State of California, whose address is 307 Western Drive, Richmond, California. Administration on the Estate of Mrs. Adele S. Vaughan, Deceased, is still open and pending.

(47) Mrs. Charles J. Hubbard, a resident of the State of New York, whose address is 7 Beech Hill Road, Huntington, New York.

(48) Frank Wharton Bradley, a resident of the State of California, whose address is 306 Diablo Court, Palo Alto, California.

(49) Walter H. Walne, Jr., a resident of Midland County, Texas, whose address is 236 Central Building, Midland, Texas.

(50) Mrs. Catherine P. Walne, a resident of Midland, Texas, whose address is 236 Central Building, Midland, Texas.

(51) Harold T. White, Jr., a resident of the State of New York, whose address is c/o White, Weld & Company, 20 Broad Street, New York, New York.

(52) John U. White, a resident of the State of Connecticut, whose address is 90 Lincoln, Stamford, Connecticut.

(53) Homer L. Bruce, Jr., a resident of Harris County, Texas, whose address is 5313 Shady River Road, Houston, Texas.

(54) Mrs. Caroline B. Vanderhoef, a resident of Harris County, Texas, whose address is 1230 Esperson Building, Houston, Texas.

(55) James L. Shepherd, III, a resident of McLennan County, Texas, whose address is 209 Castle Avenue, Waco, Texas.

(56) Mrs. Cecilia Shepherd Cambias, a resident of the State of Louisiana, whose address is 422 Burdette Street, New Orleans, Louisiana.

(57) Mrs. Rose E. Milmine Wolf, a resident of the State of New York, whose address is c/o First National Bank, 309 Park Avenue, New York, New York, Attention: Investment Advisory Department.

(58) Brady Marshall Cole, a resident of the State of Massachusetts, whose address is Apartment 707, East Peabody Terrace, Cambridge, Massachusetts.

(59) Clarence Wharton Cole, a resident of the State of Virginia, whose address is 1600 Joyce Street, Apartment B801, Arlington, Virginia.

[30]

Docket No. CP75——
EXHIBIT "C"
Page 5 of 9

(60) Richard Roesser Cole, a resident of Travis County, Texas, whose address is 605 West 31½ Street, Austin, Texas.

(61) The Rembrandt Corporation, a foreign corporation, with an office and agent for service c/o Turk, Marsh, Ouchterloney and Kelley, 666 Fifth Avenue, New York, New York.

(62) Mrs. Sophy Mason Burnam, a resident of the State of New York, whose address is c/o L. R. Mason, 666 Fifth Avenue, New York, New York.

(63) Pauline A. McLeod, a feme sole, a resident of the State of New York, whose address is c/o First National City Bank, Lenos Hill Branch, 167 East 72nd Street, New York, New York.

(64) Mrs. Elizabeth Hudson Penn, a resident of Dallas County, Texas, whose address is 1065 Hartford Building, Dallas, Texas.

(65) Nancy Elizabeth Penson, a resident of Dallas County, Texas, whose address is 1065 Hartford Building, Dallas, Texas.

(66) The Republic National Bank of Dallas, Trustee of Robert Lee John Penn, a national banking as-

sociation, with an office and agent for service at the Republic National Bank of Dallas, Dallas, Texas.

(67) William Y. Penn and the First National Bank in Dallas, Dallas, Texas, Trustees of the following named Trusts: the Evelyn Penn Trust; the Robert Read Penn No. 2 Trust; the David Cawthon Penn No. 2 Trust; the William Travis Penn No. 2 Trust; the Frank Walter Penn Trust; and the Robert L. Penn Trust. The said William Y. Penn is a resident of Dallas County, Texas, whose address is 1065 Hartford Building, Dallas, Texas. The First National Bank in Dallas, Dallas, Texas, is a national banking association with an office and agent for service in the First National Bank in Dallas, Dallas, Texas.

(68) Elizabeth Hudson Penn and John G. Penson, Trustees of the following named Trusts: the Nancy Penson Trust; the John G. Penson Trust; the Anne E. Penson No. 2 Trust; and the Susan L. Penson No. 2 Trust. Elizabeth Hudson Penn is a resident of Dallas County, Texas, whose address is 1065 Hartford Building, Dallas, Texas. John G. Penson is a resident of Dallas County, Texas, whose address is 4470 First National Bank Building, Dallas, Texas.

(69) Jack Stieren, a resident of Bexar County, Texas, whose address is 302 Belvedere Drive, San Antonio, Texas.

(70) Dena Ida Koenig, a resident of Dallas County, Texas, whose address is c/o Barr and Carmody, 1106 Kirby Building, Dallas, Texas.

(71) J. L. Hardin and wife, Velma Walker Hardin, residents of Lubbock County, Texas, whose address is Lubbock, Texas.

(72) The Citizens National Bank of Lubbock, Independent Executor and Trustee under the Will of Bryan Walker, Deceased, a national banking association with an office and agent for service at the Citizens National Bank of Lubbock, Lubbock, Texas. Administration of the Estate of Bryan Walker, Deceased, is still open and pending.

(73) Nora Walker, a widow, a resident of Lubbock County, Texas, whose address is 302 Uvalde, Lubbock, Texas.

[31]

Docket No. CP75——
EXHIBIT "C"
Page 6 of 9

(74) Royalty Roundup, Inc., a Texas corporation, with Neal Marriott, 104 Oil Industries Building, Corpus Christi, Neuces County, Texas, as its agent for service.

(75) Palmer E. Koenig, a resident of the State of Maryland, whose address is 17 Riggs Road, Linstead on Severn, Severna Park, Maryland.

(76) Lucille Parker Markey, as Executrix of the Estate of Warren Wright, Deceased, a resident of Cook County, Illinois, whose address is One North La Salle Street, Room 1809, Chicago, Illinois. Administration of the Estate of Warren Wright, Deceased, is still open and pending.

(77) Helen K. Graves, a resident of Dallas County, Texas, whose address is 3512 Cornell Avenue, Dallas, Texas.

(78) The First National Bank of Midland, Midland, Texas, a national banking association with its principal office of business at the First National Bank Building, Midland, Texas, and with C. J. Kelly, President, as an agent for service.

*(79) M. J. Kjar, a resident of Howard County, Texas, whose address is Big Spring, Texas.

*(80) Mullinax, Wells, Morris and Mauzy, a partnership composed of Otto B. Mullinax, L. N. D. Wells, Charles J. Morris and Oscar H. Mauzy, with its principal place of business at 1601 National Bankers Life Building, Dallas, Texas, where service of process may be obtained upon the members of the partnership. All of the members of the partnership are residents of Dallas, Dallas County, Texas.

*(81) George H. Echols, a resident of Harris County, Texas, whose address is 11205 South Main Street, Houston, Texas.

*(82) Lee A. Curtis, Jr., a resident of the State of Georgia, whose address is Room 210, First Federal Savings and Loan Building, Gainesville, Hall County, Georgia.

*(83) Boyd Enterprises, Inc., a Texas corporation with its principal place of business at 2003 Wilco Building, Midland, Texas, and with Walter K. Boyd, Jr., President, as an agent for service.

*(84) C. A. Semple, a resident of Midland County, Texas, whose address is 1605 Gulf Avenue, Midland, Texas.

---

* The aforementioned Plaintiffs' Original Petition refers to this person as an owner of leasehold interests, rather than as a reversionary interest owner.

*(85) Marvin L. Smith, a resident of Ector County, Texas, whose address is 3641 East County Road, Odessa, Texas.

*(86) Capitan Drilling Company, Inc., a Texas corporation, with W. N. Rees, 3641 East County Road, Odessa, Texas, as its agent for service.

*(87) Alps Oil Company, a partnership composed of J. W. Peery, R. S. Searls, Jr., W. H. Stroud, and D. M. Aldridge, with its principal place of business at 802 First National Bank Building, Odessa, Ector County, Texas, where service of process may be obtained. All of the members of this partnership are residents of Odessa, Ector County, Texas.

[32]

Docket No. CP75——
EXHIBIT "C"
Page 7 of 9

(88) Harold T. White, Jr., John U. White, and Gunnar Maske, Executors of the Estate of Elizabeth Maske, Deceased, and Trustees under the Will of Elizabeth Maske, Deceased. Harold T. White, Jr., is a resident of the State of New York, whose address is c/o White, Weld and Company, 20 Broad Street, New York, New York. Gunnar Maske, a resident of the State of Connecticut, whose address is West Road, New Canaan, Connecticut. John U. White is a resident of the State of Connecticut, whose address is 90 Lincoln, Stamford, Connecticut. Administration on the Estate of Elizabeth Maske, Deceased, is still open and pending.

---

* The aforementioned Plaintiffs' Original Petition refers to this person as an owner of leasehold interests, rather than as a reversionary interest owner.

(89) Neal Marriott, Mary Shelton and Evelyn Bender, known stockholders of Royalty Roundup, Inc., a Texas corporation whose charter has been forfeited by the Secretary of State of the State of Texas, and all of the unknown stockholders of Royalty Roundup, Inc. Neal Marriott, Mary Shelton and Evelyn Bender are residents of Nueces County, Texas, with the following addresses: Neal Marriott, 104 Oil Industries Building, Corpus Christi, Texas; Mary Shelton and Evelyn Bender, Corpus Christi, Texas.

(90) Jerome B. Herbert, Mary Halcomb Herbert and Marie McCutcheon, known stockholders of Trans-Continental Resources Corporation, a Texas corporation whose charter has been forfeited by the Secretary of State of the State of Texas, and all of the unknown stockholders of Trans-Continental Resources Corporation. Jerome B. Herbert, Hary Halcomb Herbert and Marie McCutcheon are residents of Dallas County, Texas, with the following addresses: Marie McCutcheon, 330 Rio Grande Building, Dallas, Texas; Jerome B. Herbert and Mary Halcomb Herbert, Dallas, Texas.

(91) Lee A. Curtis, Jr., Jerome B. Herbert and Robert C. Boozer, known stockholders of Greater Georgia Investment Corporation, a Georgia corporation, declared not to be in good standing by the Secretary of State of the State of Georgia, and all of the unknown stockholders of Greater Georgia Investment Corporatin. Lee A. Curtis, Jr., and Jerome B. Herbert are residents of the State of Georgia whose address is 1029 Fulton Federal Building, Atlanta, Fulton County, Georgia. Robert C. Boozer is a resident of the State of Georgia whose address is 80 Broad Street, N.W., Atlanta, Fulton County, Georgia.

*(92) Greater Georgia Investment Corporation, a Georgia corporation, with its principal office and place of business at 1029 Fulton Federal Building, Atlanta, Fulton County, Georgia, and with Lee A. Curtis, Jr., President, as its agent for service.

*(93) Trans-Continental Resources Corporation, a Texas corporation, with Marie McCutcheon, 330 Rio Grande Building, Dallas, Texas, as its agent for service.

*(94) Willard McClain, a resident of Dallas County, Texas, whose address is Box 2639, Dallas, Texas.

[33]

Docket No. CP75——
EXHIBIT "C"
Page 8 of 9

*(95) Glenn T. Lang, Jr., a resident of Dallas County, Texas, whose address is 6550 Lange Circle, Dallas, Texas.

*(96) Morris I. Jaffe, a resident of Bexar County, Texas, whose address is San Antonio, Texas.

*(97) Da-Mik Oil Company, a foreign corporation, whose State of incorporation is unknown but which has a place of business and agent for service at 267 Meadows Building, Dallas, Texas.

*(98) A. L. Barnes, a resident of Midland County, Texas, whose address is 100 East Nobles, Midland, Texas.

---

* The aforementioned Plaintiffs' Original Petition refers to this person as an owner of leasehold interests, rather than as a reversionary interest owner.

*(99) Robert F. Meyer, a resident of Midland County, Texas, whose address is 214 First Savings and Loan Building, Midland, Texas.

*(100) The American Bank of Commerce, Odessa, Texas, a Texas corporation, with its principal place of business and agent for service at the American Bank of Commerce in Odessa, Ector County, Texas.

*(101) Sidney Barrows, Trustee, whose address is unknown.

*(102) Bank of the Southwest National Association of Houston, Texas, a national banking association with its principal place of business and agent for service at the Bank of the Southwest National Association in Houston, Harris County, Texas.

*(103) L. S. Melzer, a resident of Midland County, Texas, whose address is 407 North Loraine Street, Midland, Texas.

*(104) Charles F. Henderson, a resident of Midland County, Texas, whose address is 1202 West Storey, Midland, Texas.

(105) The unknown heirs of any person above named to whom there has accrued any claim of interest in and to the oil, gas and other minerals in and under and that may be produced from any of the lands described in the Lease, or to whom there has been granted any Interest in the oil, gas and other minerals in and under and that may be produced from any of the lands described in the Lease and the unknown stockholders of any of the above named corporations which is now defunct.

---

* The aforementioned Plaintiffs' Original Petition refers to this person as an owner of leasehold interests, rather than as a reversionary interest owner.

(106) Any unknown person or claimant holding, taking or claiming the equitable or beneficial title to any interest of any kind in and to the oil, gas and other minerals in and under and that may be produced from any of the lands described in the Lease under any conveyance, lease, contract or other written instrument to any person or persons as trustee or trustees which does not disclose the name of such unknown person or claimant.

[34]

Docket No. CP75——
EXHIBIT "C"
Page 9 of 9

(107) Any unknown person or claimant holding, acquiring or claiming title to any interest of any kind in the oil, gas and other minerals in and under and that may be produced from the lands described in the Lease, under or by virtue of any conveyance, lease, contract or other written instrument of record in the Office of the County Clerk of Crane County, Texas, to any association, joint stock company, partnership, in an association, company or firm name, whether named above or not, or to any corporation (not shown to be a corporation), whether named above or not, without disclosing the names of the members, shareholders or partners or persons owning interests in such association, company or firm, and such association, joint stock company or partnership was thereafter dissolved and the persons or claimants holding, acquiring or claiming title after dissolution are not disclosed in the conveyance, lease, contract or other written instrument and are unknown.

[35]

Docket No. CP75——
EXHIBIT "D"
Page 1 of 6

GULF OIL CORPORATION v.
SOUTHLAND ROYALTY COMPANY

TEX. 547

Cite as 496 S.W.2d 547

GULF OIL CORPORATION ET AL., PETITIONERS,

v.

SOUTHLAND ROYALTY COMPANY ET AL., RESPONDENTS.

No. B-3385.

Supreme Court of Texas.

Rehearing Denied July 25, 1973.

Suit for declaratory judgment as to longevity of oil and gas lease. The 109th District Court, Crane County, Austin, J., entered judgment for defendants, and plaintiffs appealed. The Court of Civil Appeals, Ramsey, C. J., 478 S.W.2d 583, affirmed, and plaintiffs brought error. The Supreme Court, Reavley, J., held that in such lease providing that it would not remain in force longer than 50 years, provision that when drilling or other operations were delayed by specified occurrences or as result of cause beyond control of lessee "the time of such delay or interruption shall not be counted against the lessee—anything in this lease to the contrary notwithstanding." did not require that operational delay time be accumulated and used to compute expiration date of 50-year term, but to excuse lessee for failure to engage in operations required by lease if failure was due to specified delays.

Judgments affirmed.

Greenhill, C. J., filed concurring opinion.

1. Mines and Minerals §78(1)

In oil and gas lease providing that it would not remain in force longer than 50 years, provision that when drilling or other operations were delayed by specified occurrences or as result of cause beyond control of lessee "the time of such delay or interruption shall not be counted against the lessee—anything in this lease to the contrary notwithstanding." did not require that operational delay time be accumulated and used to compute expiration date of 50-year term, but to excuse lessee for failure to engage in operations required by lease if failure was due to specified delays.

2. Mines and Minerals §73½

Generally, duration of estate granted by oil and gas lease is determined by habendum clause, but instrument may provide elsewhere for the enlargement of the term stated in the habendum.

3. Mines and Minerals §73½

Questions as to duration of estate granted by oil and gas lease always involves resolving the intention of the parties from the entire instrument.

Ira Butler, Fort Worth, Jackson, Walker, Winstead, Cantwell & Miller, A. W. Walker, Jr., Dallas, Jesse P. Luton, Jr., Morgan L. Copeland, and K. C. Keener,

[36]

Houston, Mullinax, Wells, Mauzy & Babb, Otto B. Mullinax, Dallas, Simon & Simon, Henry Simons, Sr. Fort Worth, Arthur E. Moers, Jr., Houston, Royce H. Savage, Edwin S. Hurst, Tulsa, Okl., William L. Kerr, Midland, Ken G. Spencer, Crane, for petitioners.

Hudson, Keltner, Smith & Cunningham, Luther M. Hudson, and J. B. Cunningham, Fort Worth, Stubbeman, McRae, Sealy, Laughlin & Browder, Tom Sealy, W. B. Browder, Jr., and F. H. Pannill, Midland, Walter B. Morgan, J. Lamar Hart, and Dillard W. Baker, Houston, C. Bennett, Crane, Joseph A. Beyer, Spur, Stroud & Smith, John R. Feather, Dallas, G. Bert Smith, Jr., Andrews, Hopkins, Sutter, Owen, Mulroy & Davis, William P. Sutter, Chicago, Ill., for respondents.

REAVLEY, Justice.

This is a suit for declaratory judgment to determine the longevity of an oil and gas lease. Gulf Oil Corporation and six others filed the suit against Southland Royalty Company and eighty-seven others to resolve this controversy: Southland and other owners of the reversionary mineral interest contend that Gulf's leasehold estate expires on July 14, 1975, which is fifty years after the date of its execution, while Gulf contends that delays of its production due to proration orders of the

Railroad Commission should not be counted in the fifty years to which it is entitled and that termination of the lease should not occur until 1987. When Gulf rested its presentation in the trial court, the judge withdrew the case from the jury and entered judgment for defendants (Southland). The Court of Civil Appeals affirmed, holding that the terms of the lease fix its termination date at July 14, 1975. 478 S.W.2d 583.

The lease was executed on July 14, 1925 by W. N. Waddell et al., lessors, and Gulf Production Company (corporate predecessor of Gulf Oil Corporation), lessee. It leased to Gulf 45,771 acres of land in Crane County "with the exclusive right of exploiting the same for and producing oil and gas therefrom." Gulf commenced drilling operation on the land and has conducted operations thereupon continuously to the present. At the time of the trial Gulf was operating 925 producing oil and gas wells there.

The original lease is almost entirely a printed document. The name of the lessee, Gulf Production Company, and all of the words of the lease provisions set forth below, except for the dollar amount of delay rental and the name of the depository bank, were in the printed for that was used. The argument centers upon Section 1, Paragraph 2, which can be referred to as the habendum or term clause, and Section 7, which Southland refers to as a force majeure or excuse clause but to which Gulf gives overriding effect. The full text of these and other relevant lease provisions are here set forth.

SECTION 1.

. . . . . .

Par. 2. TO HAVE AND TO HOLD unto said Lessee and to Lessee's successors and assigns for the term of Twelve (12) years from the date hereof and as much longer thereafter as oil or gas (or other minerals, if produced hereunder) are produced from said land. Provided, that this lease shall not remain in force longer than fifty (40) years from this late, and provided further, that a temporary cessation of production due to cleaning out, working over or drilling deeper of any well, or similar causes occurring after production secured, shall not terminate this lease. And Lessor covenants that Lessor has good title to said land and will protect Lessee in the quiet and peaceable possession thereof.

Par. 3. Lessee agrees to begin operations for the drilling of a well on the premises within twelve (12) months from the date hereof, or, failing so to do, Lessee

[37]

Docket No. CP75——
EXHIBIT "D"
Page 3 of 6

agrees to pay in the manner below stated for each six (6) months' period for which such drilling is delayed, not to exceed eighteen (18) such periods, the sum of

$5,721.37 Dollars, such payment to be made on or before the beginning of each such period and shall be made by paying the same to the Lessor in person or to the First National Bank of Ft. Worth, Texas, or Lessee may mail Lessee's check to Lessor in said sum in care of said Bank, payable to Lessor, said Bank being hereby constituted Lessor's agent to receive said funds for Lessor or to receive and deliver said check to said Lessor, as the case may be; in either of the three methods of making such payment Lessee may use Lessee's check and the mailing of said check be deemed making payment; if Lessee shall fail to make such payment in advance as above provided, and such failure or default shall continue for thirty (30) days after the due date of such payment, Lessor shall have the right to forfeit this lease.

. . . . . .

Par. 5. If while this lease is in force as herein provided, Lessee shall have begun operations in attempt to find oil or gas, then, without making any further payments Lessee may continue such attempt, and may make as many attempts as Lessee pleases; but if Lessee shall abandon such attempts for ninety (90) days without finding oil or gas in paying quantities, Lessee shall resume payment of the rentals falling due after the completion or abandonment of such well, at the next ensuing rental period beginning after such completion or abandonment; provided Lessee shall have at least ninety (90) days from the date of such abandonment of operations in which to make such payment and on resuming payment of rentals Lessee shall have the right to continue making the same or of beginning operations for the drilling of a well and to alternate such rights.

Par. 6. If operations shall not be begun on or before the expiration of ten (10) years from this date, this lease shall wholly terminate, but if, prior to the termination of such ten (10) years, Lessee shall have begun operations in attempt to find oil or gas and is engaged in such operations at the end of the ten-year period, then Lessee shall have the right to continue such operations and also to make as many additional attempts to find oil or gas as Lessee desires beyond the expiration of said ten-year period; provided, however, that these attempts so extending such rights beyond such ten years must be successive in the sense that, until oil or gas be found in paying quantities, not more than sixty (60) days shall elapse between the abandonment of work on one well and the beginning of operations on another, and provided further that this right to make attempts before the discovery of oil or gas shall not continue in any event longer than twelve (12) years from the date hereof.

. . . . . .

SECTION 7.

Paragraph I. When drilling or other operations are delayed or interrupted by storm, flood, or other act of God, by fire, war, rebellion, scarcity of water, insurrection, riots, strikes, scarcity of labor, differences with employees, or failure of carriers to transport or furnish facilities for transportation, or as the result of some order, requisition or necessity of the Government, or as the result of any cause whatsoever beyond the control of the Lessee, the time of such delay or interruption shall not be counted against the Lessee—anything in this lease to the contrary notwithstanding.

Under paragraphs 3 and 5 of section 1 the lessee is required to begin operations for the drilling of a well within twelve months or to pay rental (for each six months in advance). If operations have begun in the attempt to find oil and gas, no delay rentals need be

[38]

Docket No. CP75——
EXHIBIT "D"
Page 4 of 6

paid while the attempt continues or a new operation is begun. Lessee is allowed ninety days after the abandonment of one well in which to begin operations for the drilling of a new well or to pay delay rentals.

Under paragraph 7 of section 1 the lease terminates if no operations are begun within ten years. If the lessee has begun operations in the attempt to find oil and gas and is engaged in such operations at the end of ten years, the lessee may continue and may make new attempts following the ten year period, but no more than sixty days may elapse between the abandonment of one well and the beginning of operations on another, and no attempt prior to discovery of oil and gas may continue after twelve years.

Under the terms of this lease the lessee is, or could be, faced with a number of different time periods: (1) The "lease shall not remain in force longer than fifty years from this date"; (2) Production must be obtained within twelve years from date; (3) Within twelve months from date, and every six months there-

after through ten years if no discovery is made, either rentals must be paid or operations must be conducted for the drilling of a well; (3a) If a well is abandoned during the ten years, rentals must be paid or another well begun within ninety days; (4) Operations to find oil or gas must be begun within ten years from date; (4a) If operations are unsuccessful and the attempt is abandoned after expiration of the ten year period, operations on another well must be begun within sixty days.

[1] It would be the effect of Gulf's contentions that the provisions of section 7 apply alike to each of the stated time periods and that no period (sixty days, ninety days, six months, twelve months, ten years, twelve years, or fifty years) is measured by the calendar alone, for the counting of the time of any period would be stopped so long as the lessee's operations are delayed or interrupted by any cause beyond its control. Gulf does not seek in this suit to save production time for any cause except for 4,661 days of lost production on the lease due to proration orders of the Railroad Commission during the period from January 1, 1938 through June 30, 1967. However, Gulf cannot prevail to any extent unless section 7 be construed to impose upon the fifty year limitation an interruption or extension for every cause named in section 7 which can be proved to exist or to have existed from July 14, 1925 until final termination.

Gulf has established that a substantial amount of oil production has been denied to it as the result of an order of government. In order to prevent waste, the Railroad Commission ordered all production of the wells on this land to be stopped during a total of 197

days between January 20, 1938 and March 23, 1940. Thereafter its monthly orders permitted production by most of the oil wells of their daily allowable volume, assumed to be that amount produced at the most efficient rate, for only a specified number of days of the month. However, the operator was given the choice of producing each well for the specified number of days in the month or of reducing the rate of production to a corresponding percentage to achieve the same total production for the month. In 1963 the Railroad Commission stopped using days as its measurement for this purpose and went to a percentage (the "market demand factor") which was applied to the scheduled daily allowable of each well to obtain the total production allowed. Gulf has tabulated the total days of denied production (multiplying the percentage by the days of the month to get the producing days where the order itself does not use days as the measurement) through the years from 1938 to 1967 and has arrived at a grand total of 4,661.444 days.

Gulf has *not* proved that all operations were interrupted on this lease at any time. To the contrary, it stipulated "that there was continuous drilling on the Waddell, et al, lease by Gulf from the time of com-

[39] Docket No. CP75——
EXHIBIT "D"
Page 5 of 6

mencement of the drilling of the first well up to and through the present time." Gulf points to the disjunc-

tive "or" in section 7: "When drilling or other operations are delayed . . ." etc. and argues that after production is obtained, time should not be counted for any purpose so long as *operations* are interrupted—even though drilling and other operations proceed apace. To reach that construction we are asked to reject a reasonable meaning of the disjunctive "drilling or other operations" and to give those words such effect as to exalt section 7 as regulator of a very long lasting lease. If section 7 is intended to do nothing more than save the lease for Gulf when interrupted from doing something that it is required to do by the lease (be that something drilling *or other operations*), the disjunctive is appropriate. Under Gulf's construction, every hour of every excused delay in a significant degree of its operations can be added to the fifty years before termination is finally reached. That construction would play havoc with the express proviso "that this lease shall not remain in force longer than fifty (50) years from this date."

Consider Gulf's position with reference to the wells which were not affected by the proration orders. Beginning in January 1944 Gulf enjoyed a discovery allowable because of opening a new field and by which for a limited time and for a limited number of wells no reduction was imposed on the production of the scheduled allowable for those wells. Since March 1945 it has operated marginal wells on the lease, these wells being incapable of producing more than a prescribed amount. Since 1960 Gulf has produced gas wells which are not associated with any oil reservoir. None of these wells were shut down or restricted by proration orders of the Railroad Commission. Gulf says that produc-

tion from these non-prorated wells was infinitesimal when compared with the production from the hundreds of top allowable oil wells. It proposes, however, an alternate computation of lost production if these non-prorated wells are to be considered. Gulf computes the percentage of the total daily scheduled allowable for the lease as a whole which is represented by the production from the non-prorated wells. That percentage multiplied by the shutdown days of a proration period gives the time credit to be allowed. Thus 34.795 days are deducted because of marginal wells, and 64.436 days are deducted because of discovery allowable oil wells. As for the gas wells, the cubic feet of gas produced is first converted into equivalent barrels of oil displacement in an oil reservoir, and then the same computation is made as for the non-prorated oil wells, giving a credit of 177.022 days.

Gulf's computations might well offer an equitable approach by which it could be redeemed for its lost oil production—if that is what the lease provides. But the lease is silent about the lessee's rights if some of its wells are not allowed to produce to full capacity; that is, the lease is silent unless its date of termination is changed by interruption of production. The express provision for the date of termination says nothing about production; it speaks only of time and dates. Gulf's cause bears a severe impediment because of the continuous drilling and production. Could we say that while drilling operations were being conducted and operating wells were producing oil and gas, the time (term) of the lease was standing still because other wells were not producing their full allowable? We would probably not reach that result unless the language of the lease permitted no other reasonable construction. But leaving aside that question, we turn

to the more fundamental inquiry: should the lease term be measured to last longer than July 14, 1975 even in the event of a complete shutdown of all drilling and operations by a cause beyond Gulf's control?

Gulf insists that the language of section 7 has that certain effect by providing that "the time of such delay or interruption shall not be counted against the Lessee—anything in this lease to the contrary notwithstanding." The final expression giving the sec-

[40]

Docket No. CP75——
EXHIBIT "D"
Page 6 of 6

tion priority over any contrary provision of the lease does not decide what the section means and to what it is contrary. Finder v. Nyegaard, 367 S.W.2d 217 (Tex. Civ.App.1963, writ ref'd n. r. e.). This brings us to the meaning of the language that the time of a delay or interruption "shall not be counted against the Lessee." We are not compelled to read this to say that all operational delay time shall be accumulated and then used to compute the expiration date of the fifty year term. Counting time against lessee and counting time on the duration of the term of the lease are two different matters. The former treats lessee's compliance with the performance required of it by the lease. The most reasonable interpretation of section 7 is that it excuses lessee for the failure to drill or engage in operations required by other provisions of the lease so long as the failure is due to a delay or interruption specified by section 7. For example, if the lessee were

to abandon drilling in one hole during the eleventh year of the lease, by the specific provision of paragraph 6 the lease would terminate sixty days thereafter upon lessee's failure to begin operations on another well. However, if lessee's delay could be accounted for by a cause within section 7, the time of that delay would not be counted against lessee—paragraph 6 of section 1 to the contrary notwithstanding.

[2, 3] The duration of the estate granted is traditionally determined by the habendum clause. 2 Summers, The Law of Oil and Gas, Perm.Ed. § 303.1, p. 319. This need not be the case, for the instrument may provide elsewhere for the enlargement of the term stated in the habendum. *See* Stanolind Oil & Gas Co. v. Christian, 83 S.W.2d 408 (Tex.Civ.App.1935, writ ref'd); Humphrys v. Skelly Oil Co., 83 F.2d 989 (5th Cir. 1936). It is always a question of resolving the intention of the parties from the entire instrument. In looking to the place in this lease where we would expect to find the term stated, we find this very certain language: "Provided, that this lease shall not remain in force longer than fifty (50) years from this date . . ." With a plain and certain answer to the question of when the lease terminates, we cannot change that answer with words elsewhere in the lease not certainly directed to the same question. Moore v. Smith, 443 S.W.2d 552 (Tex. 1969); Cartwright v. Trueblood, 90 Tex. 535, 39 S.W. 930 (1897).

The judgments below, declaring and adjudging the lease to terminate finally on July 14, 1975, are affirmed.

GREENHILL, C.J., concurs and writes opinion.

GREENHILL, Chief Justice (concurring).

I do not agree with the holding of the court that Section 7 of the lease is simply an excuse clause and would not be applicable, as relevant here, even if there had been a *complete* shutdown of all operations [for a period of years, for example] by governmental orders.

[41]

Docket No. CP75——
EXHIBIT "E"
Page 1 of 3

EXXON COMPANY, U.S.A.
Post Office Box 2180 • Houston, Texas 77001
Natural Gas Department

October 1, 1974

(RECEIVED OCTOBER 3, 1974)

Odessa Natural Corporation
P. O. Box 3908
Odessa, Texas 79760
Attention: Mr. J. W. Cole, Jr.
Gentlemen:

Exxon Company, U.S.A. (a division of Exxon Corporation) is soliciting proposals for the purchase of its share of natural gas produced from various lands and leases in the Sand Hills Field, Crane County, Texas. This production will be available to Exxon on July 14, 1975. A total of 1,482 producing wells are involved (1,395 oil wells and 87 gas wells). These wells produce into 68 separate tank batteries. Exxon's working interest is expected to range from 12.4% in 45,771 acres of land to 25.0% in 33,147 acres of land. The acreage is situated within the area outlined on the attached plat which also indicates the approximate location of the tank batteries into which the wells are produced.

The following terms should be taken into consideration in submitting your offer to purchase our interest in the gas production:

1. Term—The term would begin on the later of July 14, 1975, or the date of first delivery of gas. The shortest primary term permissible under the circumstances is desirable.

2. Delivery Point—Offers are solicited on the basis of alternate delivery points: (a) at each tank battery location (b) at the outlet of either or both of the Warren Petroleum Corporation gasoline plants in section 21, Block B-21 and in Section 25, Block B-25, and (c) at a point in the field located in the NW ¼ of Section 18, Block B-32.

3. Delivery Pressure—At pressures estimated at 25 psig for the casinghead gas and ranging from an estimated 100 psig to 500 psig for the gas well gas. If deliveries are made at the outlet of Warren's plants, the pressure would be 650 psig, and if at the field point the pressure would be negotiable.

4. Quality—If deliveries are made at the tank battery locations or at the field point the gas would be delivered in its natural state. If deliveries are made at the outlet of the Warren plants, the gas would be residue of pipeline quality.

[42]

Docket No. CP75——
EXHIBIT "E"
Page 2 of 3

5. Quantity—We do not warrant the performance of any well on the acreage in which Exxon owns an interest. We anticipate that the volume of gas production attributable to Exxon's interest on July 14, 1975 will amount to about 17 MMcf per day raw gas, or 14 MMcf per day plant residue, representing approx-

imately 14% of the total gas production from the leases. Commitment will be limited to the base of the Ellenburger Formation.

6. Price—The price would be determined not less than 30 days prior to the date deliveries are to commence and at least annually thereafter on some mutually acceptable basis. The contract should also provide for stated minimum prices and fixed annual escalations.

Please advise within fifteen days after your receipt of this letter whether you desire to submit a proposal to purchase Exxon's interest in this gas production. If so, we will be pleased to provide such additional information as is available to us and not considered to be of a confidential nature to assist in your evaluation. Exxon reserves the right to reject any and all offers or proposals within its sole and absolute discretion. This letter is not (and is not to be construed as) an offer to sell gas. Acceptance of any offer or proposal would be subject to the condition that the parties agree upon the definitive terms of a comprehensive gas sale and purchase agreement.

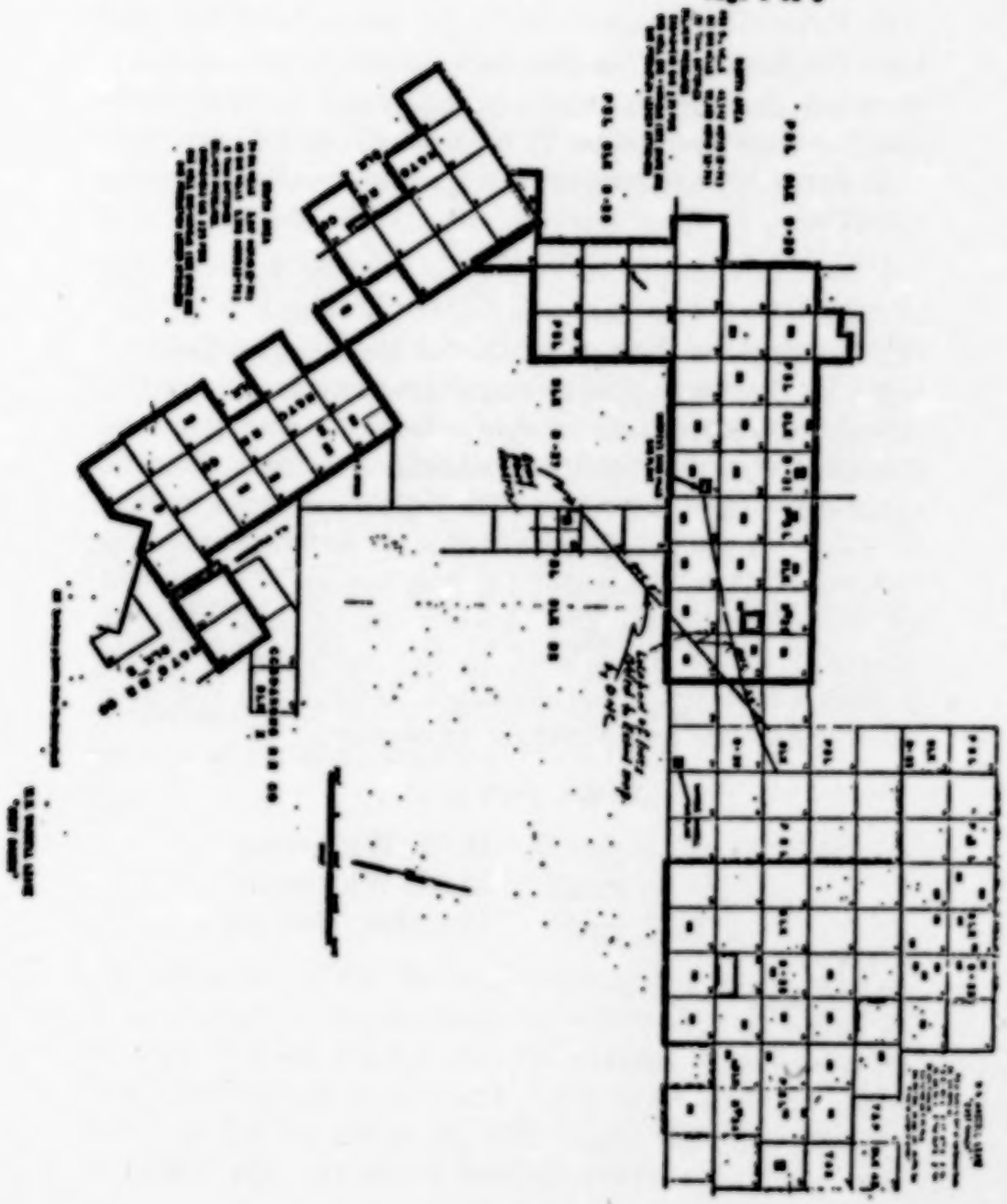
Yours very truly,

/s/ M. G. WHITCOMB
M. G. Whitcomb
Manager, Gas Sales

MGW/js
Attachment

[43]

Docket No. CP75-___
Exhibit "E"
Page 3 of 3



[44]

Docket No. CP75——
EXHIBIT "F"
Page 1 of 3

SOUTHLAND ROYALTY COMPANY

1600 First National Building
Fort Worth, Texas 76102

November 18, 1974

(RECEIVED NOVEMBER 19, 1974)

Mr. J. W. Cole, Jr.
Odessa Natural Gas Corporation
Box 3908
Odessa, Texas 79760

Subject: Gas Sales
Waddell Ranch
Crane County, Texas

Dear Mr. Cole:

You have previously expressed an interest in purchasing all or a portion of Southland's Waddell Ranch gas in Crane County, Texas.

For your information, we enclose average casinghead gas and gas well gas analyses and raw gas volume data furnished us by Warren Petroleum Company.

Southland Royalty Company, the Warren Wright Estate and the Penn interests collectively own approximately 80 percent of the term lease gas and are considering the sale of this gas at one of the three following points of delivery:

1. At the inlets of the Warren Sand Hills and Waddell gasoline plants. Under these conditions the gas will be sour and wet and at the respective plant inlet pressures.

2. At a point or points after the H_2S has been removed but before any liquifiable hydrocarbons have been extracted.

3. At the outlet of existing or new processing facilities. Under this condition the residue gas will be of conventional pipeline quality.

Southland will act as the representative of the Warren Wright and Penn interests in the initial gas sales negotiations and will, on behalf of this group, seek the optimum benefit from the disposition of the gas and liquids to be produced from the Waddell properties.

[45]

Docket No. CP75——
EXHIBIT "F"
Page 2 of 3

Representing Southland in any negotiations will be Mr. I. Jon Brumley, President, Mr. C. Weston Roodhouse, Senior Vice President, and Mr. Roy T. Durst, Consultant. Either Mr. Roodhouse or Mr. Durst may be contacted at any time for additional information.

We would appreciate your advising us immediately if you desire to discuss with us the possible purchase of the Waddell gas. The expected date of first delivery is July 15, 1975.

Yours very truly,

SOUTHLAND ROYALTY COMPANY
/s/ I. Jon BRUMLEY
I. Jon Brumley, President

IJB/lhl
enc.

cc: Mr. John Penson
Mr. Harry Orr
Mr. C. W. Roodhouse
Mr. Roy T. Durst

[46]

Docket No. CP75——
EXHIBIT "F"
Page 3 of 3

WADDELL RANCH GAS DATA

Listed below are gas analyses furnished Southland Royalty Company by Warren Petroleum Company. These data are reported as representative of the gas composition over a full year of operation and may therefore not be identical to spot samples taken from time to time.

	Casinghead Gas			Gas well Gas		
Content	Mol %	GPM		Mol %	GPM	
N_2	1.430			1.270		
CO_2	1.380			1.550		
H_2S	2.310			0.900		
C_1	73.536			85.350		
C_2	10.980	2.929		6.720	1.793	
C_3	6.050	1.661		2.710	0.744	
i-C_4	0.730	0.238)	0.857	0.300	0.098)	0.309
n-C_4	1.970	0.619)		0.670	0.211)	
i-C_5	0.540	0.197)		0.153	0.056)	
n-C_5	0.554	0.200)	0.625	0.152	0.055)	0.210
C_6	0.326	0.134)		0.132	0.054)	
C_7	0.194	0.094)		0.093	0.045)	
	100.000	6.072		100.000	3.056	

The following volumes were reported to be the actual metered volumes for the seven months ending July 31, 1974.

	MCFD		
	Total Gas Waddell-Sand Hills Systems	Term Lease Gas	Term % of Total
Total Casinghead Gas	116,113	62,691	53.99
Total Gaswell Gas	132,423	91,549	69.13
Total	248,536	154,240	

[47]

Docket No. CP75——
EXHIBIT "G"
Page 1 of 1

October 10, 1974

Exxon Company, U.S.A.
P. O. Box 2180
Houston, Texas 77001

Attention: Mr. M. G. Whitcomb, Jr.

Gentlemen:

It has come to our attention that Exxon is soliciting proposals for the purchase of its share of natural gas produced from various lands and leases in the Sand Hills Field, Crane County, Texas.

This letter is for the purpose of putting you on notice that El Paso is cognizant of your proposal and has undertaken a review of the source of such gas and its current disposition, and, to the extent such gas is currently or has been received by El Paso into its interstate pipeline system, either by virtue of El Paso's purchases off your Sand Hills Plant or off Warren's Waddell Plant or any other plant from which El Paso purchases gas, El Paso shall consider what position it shall desire to take, if any, in order that its interests can be preserved.

Very truly yours,

/s/ R. E. JOHNSON
R. E. Johnson

cc: (w/Attachs.) Mr. R. F. Lemon
Reservoir Engineering

[48]

Docket No. CP75——
EXHIBIT "H"
Page 1 of 1

October 10, 1974

Southland Royalty Company
1600 First National Building
Fort Worth, Texas 76102

Attention: Mr. J. R. Burnett

Gentlemen:

It has come to our attention that Exxon is currently soliciting proposals for the purchase of its share of natural gas produced from various lands and leases (W. N. Waddell Leases) in Crane County, Texas.

We are not sure whether or not you have embarked on a similar solicitation, but we thought we ought to make you aware of the contents of our letter furnished Exxon this date, copy attached, and that the contents thereof would equally apply to your share of such gas.

Very truly yours,

/s/ R. E. JOHNSON
R. E. Johnson

Attachment

REJ:ck

cc: Mr. R. F. Lemon
Reservoir Engineering

[49]

UNITED STATES OF AMERICA
FEDERAL POWER COMMISSION

Docket No. CP75-209

EL PASO NATURAL GAS COMPANY

(January 30, 1975)

Notice of Petition for a Declaratory Order

Take notice that on January 20, 1975, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP75-209 pursuant to Section 1.7(c) of the Commission's Rules of Practice and Procedure a petition for a declaratory order resolving certain questions and removing certain uncertainties in connection with the expiration of a 50-year fixed term lease currently held by Gulf Oil Corporation which will expire on July 14, 1975.

The petition states that on July 14, 1925, Gulf Production Company, the corporate predecessor of Gulf Oil Corporation (Gulf), as lessee, executed a 50-year fixed term oil and gas lease with W. N. Waddell, *et al.*, lessors. It is stated that by the terms of said 50-year fixed term lease, Gulf obtained the exclusive right of exploiting 45,771 acres of land in Crane County, Texas, and producing oil and gas therefrom, and that the leasehold estate expires fifty years after date of execution, which is July 14, 1975, whereupon the mineral rights, including the rights to natural gas production, shall revert to the reversionary mineral interest owners.

The petition further states that Gulf and other leasehold interest owners of said 50-year fixed term lease

make percentage-type sales to Warren Petroleum Corporation (Warren), a division of Gulf, of certain quantities of casinghead gas produced from the acreage covered by the said 50-year fixed term lease. On January 26, 1951, El Paso, as buyer, and Gulf, as seller, executed a residue gas purchase agreement by which El Paso agreed to buy surplus residue gas from Gulf's natural gasoline extraction plant in Crane County, Texas, called the Waddell Gasoline Plant. On March 1, 1972, El Paso and Warren entered into an additional residue gas purchase agreement concerning certain quantities of residue gas from the Waddell Gasoline Plant. El Paso states that pursuant to these gas purchase [50] contracts, El Paso takes delivery of approximately 60,000 Mcf daily of surplus residue gas into its pipeline system at the outlet at the Waddell Gasoline Plant and transports it through its jurisdictional facilities for subsequent resale in interstate commerce. El Paso further states that it is informed by Warren that approximately 25,000 Mcf daily of such surplus residue gas is attributable to production from wells on land leased by Gulf and other leasehold interest owners to El Paso pursuant to the said 50-year fixed term lease.

The petition indicates that El Paso has become aware that the reversionary interest owners[1] are soliciting proposals from intrastate gas transmission companies for the purchase of their shares of natural

[1] El Paso states that Southland Royalty Comapny, soliciting on behalf of the estate of Warren Wright and the Penn interests, collectively represents 80 percent of the term lease gas, and that Exxon's interest represents 14 percent of the term lease gas.

gas produced after July 14, 1975, from the acreage covered by said 50-year fixed term lease.

Therefore, El Paso is petitioning the Commission for a declaratory order resolving the following questions: (i) Given the fact that, according to Texas law, a certain 50-year fixed term lease automatically terminates on July 14, 1975, and the mineral rights thereunder revert to the reversionary interest owners, must Gulf Oil Corporation and other lessees under said certain 50-year fixed term lease, who have been selling gas produced from said lease on a percentage-of-the-proceeds basis to Warren Petroleum Corporation for resale in interstate commerce, obtain abandonment authorization pursuant to Section 7(b) of the Natural Gas Act and Section 154.91 of the Commission's Regulations under the Natural Gas Act in order to cease such sales to Warren and effectuate the transfer by reversion to Exxon Corporation, Southland Royalty Company, and other reversionary interest owners of the mineral rights under said certain 50-year fixed term lease? (ii) Given the facts set forth in (i), without prior Commission authorization, may Exxon Corporation, Southland Royalty Company, and other reversionary interests divert natural gas from its present movement in interstate commerce to delivery and sale in intrastate commerce? (iii) Given the facts set forth in (i), without prior Commission authorization, may Warren Petroleum Corporation reduce its sales in interstate commerce of residue natural gas to El Paso, the present level of which is attributable in part to production from the lease in question?

[51] Any person desiring to be heard or to make any protest with reference to said petition should, on or

before February 19, 1975, file with the Federal Power Commission, Washington, D.C., 20426, a petition to intervene, or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB
Secretary

[52] EL PASO NATURAL GAS COMPANY
EL PASO, TEXAS 79978

JANUARY 30, 1975

(FEBRUARY 3, 1975)

Federal Power Commission
825 North Capitol Street
Washington, D.C. 20426

Attention: Mr. Kenneth F. Plumb, Secretary

Re: El Paso Natural Gas Company;
Docket No. CP75-209

Gentlemen:

On January 20, 1975, El Paso Natural Gas Company ("El Paso") filed with the Commission a Petition of El Paso Natural Gas Company for Issuance of a Declaratory Order at Docket No. CP75-209. El Paso wishes to make the following corrections in said Petition:

1) Page 1, line 31 which reads "ral Gas Act in order to cease such sales to El Paso and" should read "ral Gas Act in order to cease such sales to Warren Petroleum Corporation, who subsequently resells such gas to El Paso, and".

2) Page 4, line 16 which reads "reversionary mineral interest owners, Exxon, *et al.*, on July 14, 1974." should read "reversionary mineral interest owners, Exxon, *et al.*, on July 14, 1975."

3) Page 8, line 1 which reads "the production of which will revert to Exxon, *et al.* on July 14,

1974," should read "the production of which will will revert to Exxon, *et al.* on July 14, 1975,".

4) Page 8, line 24 which reads "Act in order to cease such sales to El Paso and ef-" should read "Act in order to cease such sales to Warren Petroleum Corporation, who subsequently resells such gas to El Paso, and ef-".

[53] A copy of this letter has been served on all persons who were served a copy of said Petition and upon all intervenors in the captioned proceeding.

Respectfully submitted,

EL PASO NATURAL GAS COMPANY

/s/ By ARTHUR R. FORMANEK, JR.
Arthur R. Formanek, Jr.
One of Counsel

G. Scott Cuming
Senior Vice President and General Counsel
Harris S. Wood
Arthur R. Formanek, Jr.
El Paso Natural Gas Company
Post Office Box 1492
El Paso, Texas 79978

C. Frank Reifsnyder
Hogan & Hartson
815 Connecticut Avenue
Washington, D.C. 20006

Counsel for

EL PASO NATURAL GAS COMPANY

[54] UNITED STATES OF AMERICA
BEFORE THE FEDERAL POWER COMMISSION

IN THE MATTER OF

Docket No. CP75-209

EL PASO NATURAL GAS COMPANY

Petition of Southern California Gas Company for Permission to Intervene

SOUTHERN CALIFORNIA GAS COMPANY (SoCal), pursuant to the provisions of the Natural Gas Act, as amended, and the Rules of Practice and Procedure of this Commission, requests that it be authorized and permitted to intervene and become a party to the above-entitled proceeding. All correspondence or communications in connection with this petition should be addressed to the following:

Thomas D. Clarke
Attorney at Law
P. O. Box 54790, Terminal Annex
Los Angeles, California 90054
(213) 689-2256

John H. Kreft, Manager of Federal
Regulatory Coordination
Southern California Gas Company
P. O. Box 3249, Terminal Annex
Los Angeles, California 90051
(213) 689-3667

I.

SoCal is a corporation organized and existing under the laws of the State of California. It purchases, distributes, and sells natural gas in the central and southern portions of the State of California. Its principal office is located at 810 South Flower Street, Los Angeles, California 90017.

SoCal has approximately 3.3 million customers and provides natural gas service to a population of approximately 10.8 million in the central and southern parts of the [55] State of California. It is the largest purchaser of natural gas from El Paso Natural Gas Company (El Paso). During the twelve months ended June 30, 1974, it received 611.0 billion cubic feet of its total natural gas supply from El Paso at the California-Arizona boundary.

II.

On January 20, 1975, El Paso Gas Company (El Paso) filed a petition for a declaratory order to resolve certain questions in connection with the expiration of a 50-year fixed term lease currently held by Gulf Oil Corporation (Gulf) which will expire on July 14, 1975.

El Paso states that on July 14, 1925, Gulf Production Company, the corporate predecessor of Gulf, as lessee, executed a 50-year fixed term oil and gas lease with W. N. Waddell, *et al.*, lessors. Pursuant to that lease, Gulf obtained the exclusive right of exploiting 45,771 acres of land in Crane County, Texas, and producing oil and gas therefrom, and that the leasehold estate expires fifty years after date of execution, which is July 14, 1975, whereupon the mineral rights, including the rights to natural gas production, shall revert to the reversionary mineral interest owners.

El Paso states that it purchases approximately 60,000 Mcf daily of surplus residue gas from Gulf Oil Corporation and from Warren Petroleum Corporation (Warren), a division of Gulf, as residue gas from Gulf's Waddell Gasoline Plant, and that approximately 25,000 Mcf daily of this residue gas is attributable to production from wells covered by the aforementioned 50-year fixed term lease.

El Paso states that it has become aware that the reversionary interest owners are soliciting proposals from intrastate gas transmission companies for the purchase of their shares of natural gas produced after the expiration of the 50-year fixed term lease.

El Paso seeks a declaratory order determining whether Gulf or other lessees may discontinue their sales of gas to Warren for resale upon termination of the lease without prior abandonment authority from the Commission. El Paso also seeks resolution of the questions of whether or not Warren may reduce its sales to El Paso without prior Commission authority and whether the reversionary interest holders may divert gas attribu .ble to their interests to other buyers without prior Commission authority.

[56] III.

In view of the foregoing, SoCal, as the largest purchaser of natural gas from El Paso, has an interest in this proceeding which cannot be adequately represented by existing parties. Under the circ stances, SoCal alleges that its participation will be in the public interest and that, accordingly, it should be granted full rights of intervention.

WHEREFORE, SoCal requests that an order be issued by the Commission authorizing it to intervene and participate in this proceeding with the full rights of a party thereto in order to protect its interests and the interests of the gas consumers in southern California which it serves.

Respectfully submitted,

SOUTHERN CALIFORNIA GAS COMPANY

/s/ By JEFFREY A. MEITH
Jeffrey A. Meith
Attorney

P.O. Box 54790, Terminal Annex
Los Angeles, California 90054

February 5, 1975

[57] [VERIFICATION OMITTED IN PRINTING]

[CERTIFICATE OF SERVICE OMITTED IN PRINTING]

[58] UNITED STATES OF AMERICA
BEFORE THE FEDERAL POWER COMMISSION

Docket No. CP75-209

EL PASO NATURAL GAS COMPANY

(RECEIVED FEBRUARY 10, 1975)

Petition of Mobil Oil Corporation for Leave to Intervene

Mobil Oil Corporation (Mobil), pursuant to Section 15(a) of the Natural Gas Act, Section 1.8 of the Federal Power Commission's (Commission) Rules of Practice and Procedure, and the "Notice of Petition for a Declaratory Order" issued by the Commission on January 30, 1975, hereby petitions for leave to intervene and to be made a formal party in the above-captioned proceeding. In support of this Petition, Mobil shows:

I.

Mobil is a New York corporation with its principal place of business for natural gas at Three Greenway Plaza East, Suite 800, Houston, Texas 77046.

The names, titles, and mailing address of persons to whom correspondence or communications concerning this Petition are to be addressed are:

Tom P. Hamill
Robert D. Haworth
Robert E. Shaw
Mobil Oil Corporation
Three Greenway Plaza East
Suite 800
Houston, Texas 77046

II.

The Commission's Notice of January 30, 1975, in this docket states that El Paso Natural Gas Company (El Paso) requests a declaratory order resolving certain questions and removing certain uncertainties in connection with the expiration of a 50-year fixed term lease currently held by Gulf Oil Corporation (Gulf) which will expire on July 14, 1975.

[59] The petition further states that Gulf and other leasehold interest owners of said 50-year fixed term lease make percentage-type sales to Warren Petroleum Corporation (Warren), a division of Gulf, of certain quantities of casinghead gas produced from the acreage covered by the said 50-year fixed term lease. On January 26, 1951, El Paso, as buyer, and Gulf, as seller, executed a residue gas purchase agreement by which El Paso agreed to buy surplus residue gas from Gulf's natural gasoline extraction plant in Crane County, Texas, called the Waddell Gasoline Plant. On March 1, 1972, El Paso and Warren entered into an additional residue gas purchase agreement concerning certain quantities of residue gas from the Waddell Gasoline Plant. El Paso states that pursuant to these gas purchase contracts, El Paso takes delivery of approximately 60,000 Mcf daily of surplus residue gas into its pipeline system at the outlet at the Waddell Gasoline Plant and transports it through its jurisdictional facilities for subsequent resale in interstate commerce. El Paso further states that it is informed by Warren that approximately 25,000 Mcf daily of such surplus residue gas is attributable to production from wells on land leased by Gulf and other leasehold inter-

est owners to El Paso pursuant to the said 50-year fixed term lease.

Mobil owns a reversionary interest under a similar lease in the area involved.

III.

Mobil is engaged in the exploration, development, processing, and sale of petroleum, natural gas and liquid hydrocarbons in numerous locations in and outside of the United States. Mobil is also a substantial purchaser and consumer of natural gas. Further, Mobil owns a reversionary interest under a lease similar to that shown by El Paso. Because of its interest in sales and purchases of natural gas, Mobil has immediate, direct interests in any Commission action determining abandonment requirements, certification, jurisdiction, policy, precedent, rules, regulations, orders or criteria affecting the issuance of the declaratory order requested by El Paso under the Natural Gas Act. Such Commission action, including any review of prices or rates, also can directly affect operations in which Mobil and its subsidiaries are presently engaged or may in the future be engaged.

In view of its own interest in this docket and in natural gas [60] as to the issues in this docket, Mobil's interest is not, and cannot be, adequately represented by any existing parties. Mobil's intervention also is in the public interest, necessary and appropriate in the administration of the Natural Gas Act, and beneficial to formulation and development of policies and procedures concerning the production, sale, purchase and consumption of natural gas.

WHEREFORE, Mobil prays that it be granted leave to intervene in this proceeding and granted all rights of a party under the Rules and the Natural Gas Act, including the right to participate in conferences and hearings, to present evidence, and to cross-examine witnesses, to file briefs, to present argument, and otherwise to participate fully.

Respectfully submitted,

MOBIL OIL CORPORATION

Tom P. Hamill
Robert D. Haworth
Robert E. Shaw

/s/ By ROBERT D. HAWORTH
Robert D. Haworth
Its Attorney

February 7, 1975

[61] (VERIFICATION OMITTED IN PRINTING)

• • • • • • • • • • •

[62] (CERTIFICATE OF SERVICE OMITTED IN PRINTING)

• • • • • • • • • • •

[63-64] (NOT USED)

• • • • • • • • • • •

[65] UNITED STATES OF AMERICA
FEDERAL POWER COMMISSION

Docket No. CP75-209

EL PASO NATURAL GAS COMPANY

(RECEIVED FEBRUARY 9, 1975)

Petition of Southwest Gas Corporation for Leave to Intervene

Pursuant to Section 15(a) of the Natural Gas Act ("Act") and Section 1.8 of the Rules of Practice and Procedure of the Federal Power Commission ("Commission"), Southwest Gas Corporation ("Petitioner") herewith files its Petition For Leave To Intervene in the subject proceedings before the Commission, and in support thereof respectfully states:

I.

The names, titles, and mailing addresses of persons to whom correspondence and communications concerning this Petition To Intervene should be mailed are:

C. H. McCrea, General Counsel
Executive Vice President
Southwest Gas Corporation
P. O. Box 1450
Las Vegas, Nevada 89101

Robert L. Muirhead
Vice President
Southwest Gas Corporation
P. O. Box 1450
Las Vegas, Nevada 89101

II.

Petitioner is a corporation organized and existing under the laws of the State of California, having its principal place of business in Las Vegas, Nevada. Petitioner is engaged as a natural gas company and public utility in the transmission, distribution, and sale of natural gas in certain portions of the states of Arizona, California, and Nevada pursuant to certificates of public convenience and necessity heretofore issued by the Commission, the Arizona Corporation Commission, the California Public Utilities Commission, and the Public [66] Service Commission of Nevada, respectively.

Petitioner's operations are conducted through an organizational structure consisting of an Arizona Division, a California Division, a Southern Nevada Division, and a Northern Nevada Division. Petitioner's facilities and operations in its Arizona, California, and Southern Nevada Division have been granted exemptions under Section 1(c) of the Act, as amended, pursuant to Orders of the Commission as follows:

Service Area	*Docket Number*
Arizona	G-10511
San Bernardino	G-9693
Southern Nevada	CP 63-176

Petitioner's facilities and operations in its Northern Nevada Division are in part subject to the jurisdiction of the Commission, as well as to the jurisdiction of the Public Service Commission of Nevada, and the California Public Utilities Commission.

III.

As a part of its Arizona Division operations, Petitioner is engaged in the distribution and sale of natural gas to its distribution customers in the Arizona counties of Gila, Greenlee, and Pinal. As a part of its Southern Nevada Division operations, Petitioner is engaged in the transmission, distribution, and sale of natural gas to its distribution customers in Clark County, Nevada, and Mohave County, Arizona, and to its resale customer distributing natural gas in Clark County, Nevada. In meeting the natural gas requirements of the aforesaid customers, which include the resale requirements of California-Pacific Utilities Company, Petitioner is wholly dependent upon El Paso Natural Gas Company ("El Paso") as its sole source of supply for firm natural gas service.

Petitioner therefore has a direct and substantial interest in any proceeding before the Commission which involves or may affect the supply of gas and the cost of gas to Petitioner. The instant proceedings are of such a nature.

IV.

The instant proceeding is a petition by El Paso Natural Gas Company for a declaratory order resolving certain questions in connection with the expiration on July 14, 1975 of a 50-year fixed term lease currently held by Gulf Oil Corporation.

V.

In view of the facts and circumstances hereinabove noted, Petitioner and its customers have a direct and

substantial interest in the conduct and disposition of the instant [67] proceedings. Petitioner believes that its interest and that of its customers is not fully and adequately represented by the existing parties of record, and believes that Petitioner's interest and that of its customers can be fully represented only by the actual participation of Petitioner itself. Petitioner believes that its intervention is necessary and appropriate to the administration of the Act, as amended, and further believes that it is in the public interest that Petitioner be permitted to intervene in the instant proceeding to advance its interest and that of its customers as it may appear.

In the event the Commission deems it necessary to conduct formal hearings and/or settlement conferences, or any other procedures which may be appropriate to a definitive disposition of the instant proceeding, Petitioner herein requests the opportunity to participate fully therein in its capacity as a party of record and petitioning intervenor herein. Petitioner believes that its interest and that of its customers in such proceedings can be fully represented only by the actual participation of Petitioner itself.

WHEREFORE, Petitioner respectfully requests that it be authorized to intervene and participate fully as a party of record in the hearings and/or proceedings hereinafter conducted in Docket No. CP75-209.

Dated this 12 day of February, 1975.

SOUTHWEST GAS CORPORATION

/s/ By C. H. McCREA
C. H. McCrea
Executive Vice President

[68] (VERIFICATION OMITTED IN PRINTING)

. . . . . .

[69] (CERTIFICATE OF SERVICE OMITTED IN PRINTING)

. . . . . .

[70] UNITED STATES OF AMERICA
BEFORE THE FEDERAL POWER COMMISSION

Docket No. CP75-209

EL PASO NATURAL GAS COMPANY

(RECEIVED FEBRUARY 18, 1975)

Notice of Intervention of the People of the State of California and the Public Utilities Commission of the State of California

The People of the State of California and the Public Utilities Commission of the State of California (California) hereby give notice of their intervention in the captioned proceeding pursuant to Section 15(a) of the Natural Gas Act and Sections 1.8(a)(1) and 1.37(f) of the Federal Power Commission's Rules of Practice and Procedure.

Dated at San Francisco, California, this 13th day of February, 1975.

Respectfully submitted,

/s/ RICHARD D. GRAVELLE
Richard D. Gravelle

/s/ J. CALVIN SIMPSON
J. Calvin Simpson

/s/ RUFUS G. THAYER, JR.
Rufus G. Thayer, Jr.

5066 State Building
San Francisco, California 94102

Attorneys for the
People of the State of California
and the Public Utilities Commission
of the State of California

[71] (CERTIFICATE OF SERVICE OMITTED IN PRINTING)

• • • • • • • • • •

[72] UNITED STATES OF AMERICA
FEDERAL POWER COMMISSION

Docket No. CP75-209

EL PASO NATURAL GAS COMPANY

Petition of Exxon Corporation for Leave to Intervene

Exxon Corporation (Exxon) pursuant to Section 15(a) of the Natural Gas Act, as amended, and Section 1.8 of the Commission's Rules of Practice and Procedure, respectfully requests permission to file its intervention in and become a party to the captioned proceeding. In support of its petition, Exxon states:

I.

Exxon is a corporation organized under the laws of the State of New Jersey, having its principal office and place of business at 1251 Avenue of the Americas, New York, New York 10020.

The names and address of persons to whom correspondence and communications concerning this petition are to be addressed are as follows:

Martin N. Erck
Paul W. Wright
Douglas E. Mock
P.O. Box 2180
Houston, Texas 77001

II.

On January 30, 1975, the Federal Power Commission (Commission) issued in the captioned docket its Notice

of Petition for a Declaratory Order. The Commission's Notice relates to the January 20, 1975 filing by El Paso Natural Gas Company (El Paso) of a Petition for Issuance of a Declaratory Order. Said petition asked the Commission to resolve three specific questions in connection with the July 14, 1975 expiration of a 50-year fixed term oil and gas lease currently held by Gulf Oil Corporation.

The three questions for which El Paso seeks the Declaratory Order are as follows:

[73] 1. Given the fact that, according to Texas law, a certain 50-year fixed term lease automatically terminates on July 14, 1975, and the mineral rights thereunder revert to the reversionary interest owners, must Gulf Oil Corporation and other lessees under said certain 50-year fixed term lease, who have been selling gas produced from said lease on a percentage-of-the-proceeds basis to Warren Petroleum Corporation for resale in interstate commerce, obtain abandonment authorization pursuant to Section 7(b) of the Natural Gas Act and Section 154.91 of the Commission's Regulations under the Natural Gas Act in order to cease such sales to Warren and effectuate the Southland Royalty Company, and other reversionary interest owners of the mineral rights under said certain 50-year fixed term lease?

2. Given the facts set forth in (1), without prior Commission authorization, may Exxon Corporation, Southland Royalty Company, and other reversionary interests divert natural gas from

its present movement in interstate commerce to delivery and sale in intrastate commerce?

3. Given the facts set forth in (1), without prior Commission authorization, may Warren Petroleum Corporation reduce it sales in interstate commerce of residue natural gas to El Paso, the present level of which is attributable in part to production from the lease in question?

Exxon is one of the owners of the reversionary interest rights to the oil, gas and other minerals covered by the 50-year fixed term lease currently held by Gulf Oil Corporation and to which El Paso's Petition for the Issuance of a Declaratory Order refers.[1] On July 14, 1975, the expiration date of the 50-year lease, the mineral rights, including the rights to natural gas [74] production will revert to the reversionary mineral interest owners. It is Exxon's position that, from and after July 14, 1975, Exxon will be free to sell and deliver its working interest gas to the purchaser or purchasers of its choice.[2]

Because of the foregoing, Exxon will or may be directly affected by the action taken, the findings made, the conclusions reached, and procedures established in the captioned proceeding. Exxon's interest is not, and

[1] Exxon's interest in the referenced properties is approximately 14 percent, considerably less than that of two of the other mineral interest owners, in spite of the fact that such mineral interest owners collectively have been designated by El Paso as "Exxon *et al*".

[2] *El Paso Natural Gas Company* v. *Perry R. Bass*, 48 F.P.C. 1269 (1972)

cannot be, adequately represented by any other party and its intervention is in the public interest and is necessary and appropriate to the administration of the Natural Gas Act.

WHEREFORE, Exxon respectively prays that it be granted leave to intervene in the captioned proceeding with the right to fully participate in the hearings, present evidence, cross-examine witnesses, file briefs, and be considered a party to this proceeding for all purposes.

Respectfully submitted,

Martin N. Erck
Paul W. Wright
Douglas E. Mock

Attorneys for
Exxon Corporation

/s/ By PAUL W. WRIGHT
Paul W. Wright

Dated in Houston this 14th day of February, 1975.

[75] (VERIFICATION OMITTED IN PRINTING)

• • • • • • • • • •

[75] (CERTIFICATE OF SERVICE OMITTED IN PRINTING)

• • • • • • • • • •

[76] UNITED STATES OF AMERICA
FEDERAL POWER COMMISSION

Docket No. CP75-209

EL PASO NATURAL GAS COMPANY

**Petition of Texaco Inc.
for Leave to Intervene**

Texaco Inc. (Texaco), pursuant to Section 1.8 of the Commission's Rules of Practice and Procedure, here by requests that it be allowed to intervene in the above-referenced proceeding. In support of this petition, Texaco respectfully represents the following:

I.

Communications with respect hereto should be addressed to the following:

E. E. Galloway, General Manager
Texaco Inc.
P. O. Box 52332
Houston, Texas 77052

and

Kirk W. Weinert, Attorney
Texaco Inc.
P. O. Box 52332
Houston, Texas 77052

II.

On January 20, 1975, El Paso Natural Gas Company (El Paso) filed in the above-referenced docket, pursuant to Section 1.7(c) of the Commission's Rules of Practice and Procedure, a petition for a declaratory order to resolve issues arising [77] as a result of the

impending expiration on July 14, 1975, of a 50-year fixed term lease in Crane County, Texas, currently held by Gulf Oil Corporation (Gulf). The petition indicates that upon expiration of this lease (W. N. Waddell, *et al.*, lessors) the mineral rights shall revert to the reversionary mineral interest owners. Casinghead gas from the above-mentioned property is delivered to Gulf's Waddell Gasoline Plant, and residue gas therefrom is sold to El Paso.

El Paso has indicated that the reversionary interest owners are soliciting proposals from intrastate gas transmission companies for the purchase of their natural gas produced after expiration of the above-mentioned lease. One of the issues raised by El Paso is whether abandonment authorization must be obtained from the Commission in order for the reversionary interest owners to sell their gas to intrastate purchasers upon expiration of the lease.

III.

Texaco is a producer and seller in interstate commerce of substantial volumes of natural gas in Texas and other states. Furthermore, Texaco is one of the reversionary interest owners of property in Ector County, Texas, which property is currently covered by another 50-year fixed term Gulf lease. Therefore, Texaco has an interest that would appear to be directly affected by the outcome of the instant proceeding. Texaco's interest in this proceeding cannot be adequately represented by any other party.

It is Texaco's preliminary view that the Commission's jurisdiction does not extend to the reversionary interests involved in this proceeding; therefore, this

petition for leave to intervene should in no way be construed as acquiescence in the Commission's jurisdiction over the subject matter.

WHEREFORE, Texaco respectfully requests that it be allowed to intervene in these proceedings. Although no request for a hearing is made in this petition, in the event that the matter is set for formal hearing, Texaco requests that it be given the right to participate therein, with the full rights [78] of a party, including, but not limited to the right to present evidence, cross-examine witnesses and participate in written and oral argument before the Commission.

Respectfully submitted,

TEXACO INC.

Kirk W. Weinert
C. Fielding Early, Jr.
Roger L. Brandt

By /s/ C. Fielding Early, Jr.
C. Fielding Early, Jr.

Houston, Texas
February 13, 1975

[79] (AFFIDAVIT OMITTED IN PRINTING)

. . . . . .

[80] EL PASO NATURAL GAS COMPANY
EL PASO, TEXAS 79978

February 21, 1975

(FILED FEBRUARY 24, 1975)

Federal Power Commission
825 North Capitol Street
Washington, D.C. 20426

Attention: Mr. Kenneth F. Plumb, Secretary

Re: El Paso Natural Gas Company;
Docket No. CP75-209

Gentlemen:

On January 20, 1975, El Paso Natural Gas Company ("El Paso") filed with the Commission a Petition of El Paso Natural Gas Company for Issuance of a Declaratory Order at Docket No. CP75-209. At page 6 of said Petition, El Paso stated its belief that, after the expiration of a certain 50-year fixed term lease presently owned by Gulf, *et al.* on July 14, 1975, Southland Royalty Company ("Southland") and other reversionary interest owners intend to sell their shares of natural gas only to intrastate of gas, thereby diverting said gas from its present movement in interstate commerce.

As a supplement to such statements in said Petition, enclosed are articles from *The Wall Street Journal,* February 13, 1975, page 20, and *The Oil Daily,* February 13, 1975, page 1, which indicate that Southland has in fact concluded arrangements for the sale of its share of natural gas in question to an intrastate buyer of gas, Intratex, at a base price of $1.90 per million British

thermal units (Btu), plus fixed increases of 2.5 cents per million Btu on January 1, 1976, and at the end of each six months thereafter.

A copy of this letter with enclosures has been served on all persons who were served a copy of said Petition and upon all intervenors in the captioned proceeding.

Respectfully submitted,

EL PASO NATURAL GAS COMPANY

/s/ By ARTHUR R. FORMANEK, JR.
Arthur R. Formanek, Jr.
One of Counsel

Enclosures

[81] El Paso Natural Gas Company
Docket No. CP75-209

20 THE WALL STREET JOURNAL, Thursday, Feb. 13, 1975

SOUTHLAND ROYALTY TO SELL GAS TO UNIT OF HOUSTON NATURAL

By a WALL STREET JOURNAL *Staff Reporter*

FORT WORTH, Texas—Southland Royalty Co. said it agreed to sell Intratex Gas Co. all natural gas to be produced from its interests in the Waddell Ranch properties, Crane County, Texas.

Intratex, a subsidiary of Houston Natural Gas Corp., will resell the gas within Texas.

The gas purchase contract covers a 20-year term, beginning with the expiration of the present leases on the properties July 14. The contract is subject to renegotiation at the election of Southland at the end of the 10th year.

The base price to be paid by Intratex is $1.90 per million British thermal units, plus fixed increases of 2.5 cents per million BTU on Jan. 1, 1976, and each six months thereafter. Southland has the right to cause the price to be redetermined as of July 14, as of Jan. 1, 1976, and at the end of each six months thereafter.

A British thermal units is the amount of heat required to raise the temperature of one pound of water one degree Fahrenheit.

Southland said that, based on production and reserve data, it will be produced from its Waddell interests in the 12 months beginning July 14. It stressed,

however, that this is only an estimate and that actual production would be subject to "many unforeseen factors."

Southland also cautioned that the value of the contract to Southland is dependent upon various contingencies.

For instance, Southland said, it and Intratex believe that, upon expiration of the Waddell leases, Southland is free to sell all of its gas to any pipeline. El Paso Natural Gas Co., the present purchaser of some of the Waddell Gas, has petitioned the Federal Power Commission questioning that position. El Paso Gas is a unit of El Paso Co.

Southland also said that, although it is trying to make suitable provisions for processing the gas to be sold to Intratex, those negotiations haven't been concluded.

Southland said it has reserved sufficient gas far various types of operations by it in the vicinity of the Waddell Ranch, and, subject to maintaining certain specifications of the gas to be sold, has also reserved the right to extract and keep liquefiable hydrocarbons.

The existing royalty provisions of the Waddell leases restrict Southland's revenue from both gas-well and casing head gas, which, combined, contributed about $80,000 in 1974 in gas revenue from the Waddell properties, the company said.

Southland receives from gas-well gas only its proportionate share of $200 per well per year, regardless of production. On casing head gas, Southland receives its share of 1/8 of production, but revenue is limited to four cents per thousand cubic feet.

[82] El Paso Natural Gas Company
Docket No. CP75-209

THE OIL DAILY

© Daily Newspaper of the Energy Industries

NUMBER 5,830 Thursday, February 13, 1975

Waddell Area Gas Sold for $1.90

Houston—Southland Royalty Co. will sell gas to a subsidiary of Houston Natural Gas Corp. for $1.90 per million Btu plus later escalations. The price is one of the highest yet paid in the southwest.

Gas would come from Southland's interests in the Waddell Ranch properties, Crane County, Texas. Deliveries to Intratex Gas Co. would begin at the expiration of a 50-year Gulf Oil Lease on the Waddell area, whose mineral interests revert to Southland at that time. The gas purchase contract with Intratex is dated Feb. 7, 1975, and will be effective for 20 years. The subsidiary will start receiving Waddell gas July 14.

[83] UNITED STATES OF AMERICA
BEFORE THE FEDERAL POWER COMMISSION

In the Matter of

Docket No. CP75-209

El Paso Natural Gas Company

Petition of Mitchell Energy Corporation for Leave to Intervene

Mitchell Energy Corporation, ("Mitchell") pursuant to Section 15(a) of the Natural Gas Act ("Act"), Section 1.8 of the Federal Power Commission ("Commission") Rules of Practice and Procedure, and the "Notice of Petition for a Declaratory Order" issued by the Commission on January 30, 1975, as amended by Notice of Extension of Time issued on February 12, 1975, respectfully submits this Petition for leave to intervene in the above captioned docket. In support of its Petition, Mitchell respectfully shows:

I.

Mitchell is a Texas corporation with its principal place of business in Houston, Texas. Petitioner is a natural gas company as defined in the Natural Gas Act, 15 U.S.C. Section 717a, and owns and operates natural gas production facilities in the states of Texas, Louisiana and Oklahoma.

The parties responsible for the preparation of this Petition and to whom all communications with respect thereto should be directed are:

Homer J. Penn, Esquire
John E. Watson, Esquire
Mitchell Energy Corporation
3900 One Shell Plaza
Houston, Texas 77002

Frank P. Saponaro, Jr.
Morgan, Lewis & Bockius
1140 Connecticut Ave., N.W.
Washington, D. C. 20036

[84] II.

The Commission's Notice of January 30, 1975, in this docket states that El Paso Natural Gas Company (El Paso) requests a declaratory order resolving certain questions and removing certain uncertainties in connection with the expiration of a 50-year fixed term lease currently held by Gulf Oil Corporation (Gulf) which will expire on July 14, 1975. The petition further states that Gulf and other leasehold interest owners of said 50-year fixed term lease make percentage-type sales to Warren Petroleum Corporation (Warren), a division of Gulf, of certain quantities of casinghead gas produced from the acreage covered by the said 50-year fixed term lease. On January 26, 1951, El Paso, as buyer, and Gulf, as seller, executed a residue gas purchase agreement by which El Paso agreed to buy surplus residue gas from Gulf's natural gasoline extraction plant in Crane County, Texas, called the Waddell Gasoline Plant. On March 1, 1972, El Paso and Warren entered into an additional residue gas purchase agreement concerning certain quantities of residue gas from the Waddell Gasoline Plant. El Paso states that pursuant to these gas purchase con-

tracts, El Paso take delivery of approximately 60,000 Mcf daily of surplus residue gas into its pipeline system at the outlet at the Waddell Gasoline Plant and transports it through its jurisdictional facilities for subsequently resale in interstate commerce. El Paso further states that it is informed by Warren that approximately 25,000 Mcf daily of such surplus residue gas is attributable to production from wells on land leased by Gulf and other leasehold interest owners to El Paso pursuant to the said 50-year fixed term lease.

III.

Mitchell submits that the issues presented in this case are similar in nature to those raised in Mitchell Energy Corporation CI75-296. Because of this similarity of issues and Mitchell's interest in sales and purchases of natural gas, [85] Mitchell has immediate direct interests in any Commission action determining abandonment requirements, certification, jurisdiction, policy, precedent, rules, regulations, orders or criteria affecting the issuance of the declaratory order requested by El Paso under the Natural Gas Tct. Such Commission action, including any review of prices or rates, also can directly affect operations in which Mitchell and its subsidiaries are presently engaged or may in the future be engaged.

In view of its own interest in this docket and in natural gas as to the issues in this docket, Mitchell's interest is not, and cannot be, adequately represented by any existing parties. Mitchell's intervention also is in the public interest, necessary and appropriate in the administration of the National Gas Act, and bene-

ficial to formulation and development of policies and procedures concerning the production, sale, purchase and consumption of natural gas.

WHEREFORE, Mitchell prays that it be granted leave to intervene in this proceeding and granted all rights of a party under the Rules and the Natural Gas Act, including the right to participate in conferences and hearings, to present evidence, and to cross-examine witnesses, to file briefs, to present argument, and otherwise to participate fully.

Respectfully submitted,

MITCHELL ENERGY CORPORATION

Homer J. Penn
John E. Watson

/s/ By FRANK P. SAPONARO, JR.
Frank P. Saponaro, Jr.
Its Attorney

February 20, 1975

[86] (AFFIDAVIT OMITTED IN PRINTING)

• • • • • • • • • •

[87] (CERTIFICATE OF SERVICE OMITTED IN PRINTING)

• • • • • • • • • •

[88] UNITED STATES OF AMERICA
BEFORE THE FEDERAL POWER COMMISSION

Docket No. CP75-209

EL PASO NATURAL GAS COMPANY

(Received February 28, 1975)

Petition of Pacific Gas and Electric Company to Intervene

Pacific Gas and Electric Company (PGandE), pursuant to the provisions of the Natural Gas Act, as amended, and to the Commission's Rules of Practice and Procedure, hereby petitions for leave to intervene in the above proceeding, and represents as follows:

I

PGandE's principal office is located at 77 Beale Street, San Francisco, California. All communications regarding this matter should be addressed to the following persons:

Malcolm H. Furbush, Associate General Counsel
Daniel E. Gibson, Senior Counsel
Donald L. Freitas, Attorney
Pacific Gas and Electric Company
77 Beale Street, Room 3120
San Francisco, California 94106
Telephone: (415) 781-4211

II

PGandE is incorporated under the laws of the State of California and is a regulated public utility

under the California Public Utilities Code. PGandE distributes gas and electricity throughout large portions of northern and central California. Its service area includes a population of approximately 8.5 million people, and 2.6 million gas customers in 37 counties take service from PGandE.

[89] III

PGandE presently depends upon three different sources for its natural gas supply: producers in California gas fields (approximately 18 percent), Pacific Gas Transmission Company which delivers gas originating in the province of Alberta, Canada (approximately 45 percent), and El Paso Natural Gas Company (El Paso) which delivers gas from fields in Texas and New Mexico (approximately 37 percent). PGandE's purchases of natural gas from El Paso make it El Paso's second largest customer.

In this proceeding El Paso Natural Gas Company has filed a petition for a declaratory order to resolve certain questions in connection with the expiration of a 50-year fixed term lease currently held by Gulf Oil Corporation (Gulf) which will expire on July 14, 1975.

Pursuant to the terms of the aforementioned lease, Gulf obtained exclusive rights for a fixed term of fifty years to mineral rights for the production of oil and gas from certain acreage located in Crane County, Texas. Upon the expiration of the 50-year period, the mineral rights are to revert to the reversionary mineral interest owners.

El Paso states that it purchases approximately 25,000 Mcf per day of surplus residue gas from Gulf

and Warren Petroleum Corporation (Warren) that is attributable to production from wells covered by the aforementioned lease.

El Paso seeks a declaratory order herein determining whether Gulf or other lessees may discontinue their sales of gas to Warren for resale upon termination of the lease without prior abandonment authority from this Commission. El Paso also seeks resolution of the questions of whether or not Warren may reduce its sales to El Paso without prior Commission authority and whether the reversionary interest holders may divert gas attributable to their interests to other buyers without prior Commission authority.

V

The Commission's eventual disposition of this proceeding will have an effect upon the quantity and price of natural gas available to El Paso which in turn will directly affect the supply and price of gas available to PGandE and its customers. Therefore, PGandE has direct and substantial interest in this proceeding, which interests are not represented by any other party. PGandE, therefore, desires to intervene in this proceeding in order to protect its interests and the interests of the gas consumers it serves in Northern and Central California.

[90] WHEREFORE, Pacific Gas and Electric Company requests that it be permitted to intervene and participate in any hearings in these proceedings with the full rights of parties thereto in order to protect

its interests and the interests of the gas consumers in northern and central California whom it serves.

Respectfully submitted,

MALCOLM H. FURBUSH
DANIEL E. GIBSON
DONALD L. FREITAS

/s/ By DANIEL E. GIBSON
Daniel E. Gibson
Attorneys for Pacific Gas

February 26, 1975

[91] (VERIFICATION OMITTED IN PRINTING)

• • • • • • • • • •

[92] (CERTIFICATE OF SERVICE OMITTED IN PRINTING)

• • • • • • • • • •

[93] UNITED STATES OF AMERICA
FEDERAL POWER COMMISSION

Docket No. CP75-209

EL PASO NATURAL GAS COMPANY

(Filed March 3, 1975)

Answer of Exxon Corporation to Petition for Issuance of a Declaratory Order and Request for Briefing Schedule

Exxon Corporation (Exxon), pursuant to Section 1.9(a) of the Commission's Rules of Practice and Procedure and the Commission's Order in these proceedings dated January 30, 1975, hereby responds to the January 20, 1975, "Petition of El Paso Natural Gas Company for Issuance of a Declaratory Order." Exxon denies that either it or the other fee owners is required to obtain abandonment authority under Section 7(b) in connection with the expiration of the 50-year fixed term oil and gas lease with Gulf Oil Corporation (Gulf) referred to in El Paso Natural Gas Company's (El Paso) petition. Exxon also denies that either Gulf or Warren Petroleum Corporation (Warren) is required to obtain abandonment authority in connection with the expiration of the oil and gas lease. Exxon requests that the briefing schedule, hereinafter described, be set with regard to the substantial Constitutional and other legal issues presented by El Paso's petition. In support whereof Exxon shows as follows:

I

In its petition, El Paso seeks a declaratory order regarding the expiration of a 50-year fixed term oil and gas lease between Exxon and the other fee owners and Gulf. Under the lease, Gulf obtained the right for a fixed term of 50 year to exploit certain mineral rights underlying certain properties in Crane County, Texas. Subject to the lease, Gulf developed, *inter alia*, natural gas production and contracted to sell such production to El Paso. On July 14, 1975, the 50-year fixed term oil and gas lease expires by its own terms and Gulf's [94] leasehold estate in the mineral rights is extinguished.[1] El Paso questions whether Gulf, Exxon, and Warren all have to obtain Commission abandonment authority upon the expiration of the lease. As a result, El Paso would argue that the gas which it has been receiving from Gulf must continue to be delivered to it beyond the lease term.

The thrust of El Paso's argument would be that it, in some manner, acquired a right to purchase that which Gulf had no right to sell. But, the leasehold estate under which Gulf developed natural gas production is for a term of 50 years. Beyond this 50-year term, Gulf has no right to dispose of the production. Thus, the gas sales contract under which Gulf agreed to sell production to El Paso is subject to the infirmity that Gulf could not sell such production

[1] The expiration of the lease on July 14, 1975, has been conclusively determined by the Supreme Court of Texas in Gulf Oil Corporation v. Southland Royalty, 496 S.W. 2d 547 (1973).

beyond the 50-year term of the lease. Nor could Gulf bind Exxon to a sale of gas to El Paso. Under such circumstances, Exxon's full enjoyment of its fee interest at the end of the lease term is free of any encumbrance is favor of El Paso. And, Exxon has not contracted to sell its gas to El Paso at the end of the lease term. Thus, for the Commission to direct, as El Paso would argue, that Exxon be required to deliver involuntarily its gas to El Paso after expiration of the lease would deprive Exxon of its property without due process of law in violation of the Fifth Amendment to the Constitution.

A. *Gulf is not Required to Obtain Abandonment Authority.*

We turn now to the three specific questions which El Paso raises in its petition. First, El Paso questions whether Gulf requires abandonment authority to transfer its mineral interests to Exxon at the expiration of the lease term. At the outset, it must be noted that there is no transfer of mineral interests at the end of the lease term. On July 14, 1975, Gulf's leasehold estate simply expires. Thus, there is no "transfer" of rights for the Commission to approve.

The necessity for abandonment authority under almost identical circumstances has already been considered by the Commission and decided in the negative in *El Paso Natural Gas Company* v. *Perry R. Bass*, 48 F.P.C. 1269 (1972). In that case, El Paso had been purchasing the full wellstream in a particular [95] well from Shell. This included the working interest

of Shell and the overriding royalty interest of Bass and the royalty interest of the original lessor. When Perry R. Bass exercised his back-in working interest, El Paso questioned whether Shell required abandonment authority before Bass could sell his working interest gas to a pipeline company other than El Paso. The Comission held that no abandonment authority was required because El Paso's rights to purchase such gas were no greater than Shell's right to sell it. Since Bass, in his agreement with Shell, had expressly precluded Shell from disposing of Bass' working interest in the gas production, Shell could not have sold Bass' gas to El Paso and El Paso could not have purchased it. Thus, the Commission found that its power to require abandonment authorization is limited to the gas which the producer has the right to sell.

Here, Gulf, like Shell, obtained its right to exploit certain oil and gas rights through a lease from Exxon for a fixed term of 50 years. Gulf was not granted any authority by Exxon with regard to production beyond the 50-year fixed lease term. Thus, Gulf had no right under the lease to commit production to El Paso beyond the 50-year term of its leasehold estate, and the contractual right of El Paso to purchase production from said leasehold its extinguished with the expiration of Gulf's lease. Since Exxon neither was a party to Gulf's contract with El Paso nor has contracted to sell its interests in the production to El Paso upon the expiration of the lease, there is no service to be provided to El Paso beyond the lease term to which the Commission's abandonment authority would be applicable.

B. *The Fee Owners are not Required to Obtain Abandonment Authority.*

Secondly, El Paso questions whether Exxon and the other fee owners require abandonment authority in order to dispose of their interests in the gas at the end of the lease term to others than El Paso. This question was also considered and rejected by the Commission in the *Bass* Opinion. There, the Commission found that in connection with its back-in working interest Bass neither owner nor operated any facilities subject to the jurisdiction of the Commission. The Commission also found that Bass made no sale for resale in interstate commerce and thus rendered no service to the interstate market prior to the exercise of its back-in working interest. Since abandonment jurisdiction under Section 7(b) extends only to jurisdictional facilities and service, the Commission concluded that no abandonment authority could be required.

[96] Here, the situation is the same. Exxon, like Bass, neither owns nor operates any facilities in connection with the existing transaction which are subject to the Commission's jurisdiction. Likewise, Exxon makes no sale for resale in interstate commerce. Thus, as in *Bass*, Exxon has no facilities and renders no service to which the Commission's abandonment authority may be applied.

In addition, the Commission noted in *Bass* that both at the time of the execution by Shell of its contract with El Paso and the time of the issuance of a certificate for such contract, Bass was a royalty owner over which it had no jurisdiction, citing *Mobil*

Oil Corp. v. *FPC*, 463 F.2d 256 (D.C. Cir. 1971), cert. denied, 406 U.S. 976 (1972). Thus, the Commission found that Bass, as a royalty owner, was among a class of persons which the courts have decreed are outside of its jurisdiction.

Here, the situation is again the same. Like Bass, Exxon was a royalty owner at the time of the execution and certification of the Gulf contracts with El Paso. Thus, as a royalty owner Exxon is among that class of persons which the courts have decreed to be outside of the Commission's jurisdiction.

Finally, Exxon would not become subject to the Commission's jurisdiction at the termination of Gulf's leasehold estate. In *Bass*, the Commission found that it could require abandonment authority only if it could hold that Bass automatically became bound by Shell's certificate and contract with El Paso. The Commission expressly concluded that it had "no basis in law" to reach such a result, particularly since under the Act one who proposes to become an interstate seller is entitled to accept or reject its certification without compulsion to render service.

Here, as in *Bass*, there is no basis in law or fact for the Commission to find that Exxon will become automatically bound by Gulf's certificates or contracts with El Paso upon the expiration of the 50-year fixed term lease. Gulf has no authority whatsoever under its lease to dispose of Exxon's fee interests after termination of the lease or to commit Exxon to any specific disposition. And, Exxon has not contracted to sell the production from its fee interest to El Paso. Thus, to hold that Exxon, as fee

owner, somehow automatically would be bound involuntarily to deliver its production to El Paso would deprive Exxon of its property without due process of law in violation of the Fifth Amendment to the Constitution. Such Constitutional principle underlies the Commission's recognition in *Bass* that a prospective in- [97] terstate seller is entitled to accept or reject its certificate without compulsion to render service.

....

C. *Warren is not Required to Obtain Abandonment Authority.*

The third and last question in El Paso's petition is whether Warren requires abandonment authority to reduce its residue gas sale to El Paso, the present level of which is attributable in part to production from the lease. This question is disposed of by the answer to El Paso's first question. Since Gulf does not require any abandonment authority at the termination of its lease, Warren does not require any abandonment authority with regard to the residue gas attributable to production from such lease. In fact it is apparent from El Paso's question that Warren will continue to sell residue gas to El Paso from its plant.

II

As may be seen, El Paso's petition presents substantial legal questions. Significant among them is the Constitutional issue regarding the potential deprivation of property in violation of Exxon's Fifth Amendment rights. Such issues clearly require a more intensive analysis than has been permitted by the

time alloted for this answer. Consequently, in the absence of any material issue of fact, Exxon requests that the following briefing schedule be adopted:

> Simultaneous initial briefs by all parties, including the Commission Staff, due to be filed on or before thirty days after the Commission acts upon this request.
>
> Simultaneous reply briefs by all parties, including the Commission Staff, due to be filed on or before twenty days after the filing of initial briefs.

III

WHEREFORE, Exxon answers in the negative the three questions posed by El Paso in its petition for declaratory [98] order and requests that the Commission adopt the briefing schedule set forth above.

Respectfully submitted,

EXXON CORPORATION

MARTIN N. ERCK
PAUL W. WRIGHT
EXXON CORPORATION
P. O. Box 2180
Houston, Texas 77001

SHERMAN S. POLAND
BERNARD A. FOSTER, III
Ross, Marsh & Foster
730-15th Street, N.W.
Washington, D. C. 20005

/s/ By BERNARD A. FOSTER, III
Bernard A. Foster, III

Dated at Washington, D. C.,
this 3rd day of March, 1975.

[99] (AFFIDAVIT OMITTED IN PRINTING)

• • • • • • • • • • •

[100-101] (CERTIFICATE OF SERVICE OMITTED IN PRINTING)

• • • • • • • • • • •

[102] UNITED STATES OF AMERICA
BEFORE THE FEDERAL POWER COMMISSION

Docket No. CP75-209

EL PASO NATURAL GAS COMPANY

(RECEIVED MARCH 7, 1975)

Petition to Intervene and Answer of Mineral Interest Owners To Petition for Declaratory Order

Pursuant to Section 1.8 and Section 1.9 of the Commission's Rules of Practice and Procedure, Mineral Interest Owners [1] hereby file this petition to intervene and answer to the petition for declaratory order filed in the captioned proceeding by El Paso Natural Gas Company (El Paso) pursuant to Section 1.7(c) of the Rules of Practice and Procedure.[2]

[103] 1.

Summary of Position of Mineral Interest Owners

The "controversy or uncertainty" [3] which is the

[1] The Mineral Interest Owners on whose behalf this petition to intervene and answer is filed are listed on Exhibit A hereto at p. 22.

[2] Section 1.7(c) of the Commission's Rules of Practice and Procedure states:

"(c) *For declaratory orders* .Petitions for the issuance, in the discretion of the Commission, of a declaratory order to terminate a controversy or remove uncertainty, shall state clearly and concisely the controversy or uncertainty which is the subject of the petition, shall cite the statutory provision or other authority involved, shall include a complete statement of the facts and grounds prompting the petition, together with the full disclosure of petitioner's interest, and shall conform to the requirements of §§ 1.15 and 1.16."

[3] Contrary to the requirement of Section 1.7(c), El Paso does

subject of El Paso's petition arises from the termination on July 14, 1975 of the 50-year fixed-term oil and gas lease held by Gulf Oil Corporation (Gulf) on the approximately 46,000 acres in Crane County, Texas, referred to in El Paso's petition. The gas attributable to Gulf's fixed-term leasehold estate is sold to El Paso at the tailgate of the Waddell Gasoline Plant which is operated by Warren Petroleum Company (Warren), a division of Gulf Oil Corporation.[4] Under established principles of Texas oil and gas law, Gulf will be the sole owner and seller of this gas production until its leasehold estate terminates on July 14, 1975. Upon termination of Gulf's leasehold estate on July 14, 1975, Mineral Interest Owners will hold fee simply title to their pro rata share of the mineral estate underlying the subject acreage.[5] *Gulf Oil Corp.* v. [104] *Southland Royalty Co.*, 496 S.W. 2d 547, 522 (Tex. Sup. Ct. 1973). In other words, upon termination of the lease on July 14, 1975, Gulf will have no right, title or interest in any gas

not state "clearly and concisely the controversy or uncertainty" which is the subject of its petition. Instead, El Paso requests the Commission to resolve three complex questions which are framed in a manner clearly prejudicial to Mineral Interest Owners and contrary to the legal relationship between the parties. At no point does El Paso take a position on how these questions should be resolved by the Commission. However, its "suggestions" and the manner in which it has framed the questions to be decided leave no doubt as to the result El Paso seeks.

[4] According to El Paso, such sales represent approximately 42% of the gas being sold to El Paso at this point of delivery (Pet. 5).

[5] The respective percentage owned by each Mineral Interest Owner in the mineral estate covered by this lease is also shown on Exhibit A hereto.

produced from and attributable to the fee simple mineral estate of Mineral Interest Owners and will have sold to El Paso all of the gas to which Gulf was entitled under the lease. Thereafter, Gulf will continue to sell to El Paso all of the gas which it could have dedicated and did dedicate under its contracts with El Paso and all of the gas covered by the certificates which the Commission has issued with respect to such sales to El Paso.

Mineral Interest Owners have agreed to sell to Intratex Gas Company [6] (Intratex) the gas attributable to the fee simple mineral estate they will hold on July 14, 1975 following the termination of Gulf's leasehold estate. According to El Paso, this sale to Intratex will result in a "diversion" of sales of surplus residue gas from interstate commerce to intrastate commerce.[7] El Paso "questions" whether such diversion should take place without prior clarification of three questions by the Commission. When these three questions are stripped of the verbal camouflage superimposed by El Paso, the dispositive question boils down to whether Mineral Interest Owners must obtain Section 7(b) abandonment authorization be-

[6] Southland Royalty Company has entered into a contract to sell its interest in the gas to Intratex, an intrastate buyer of gas, which is a wholly owned subsidiary of Houston Natural Gas Corporation, a distributor of gas in the City of Houston, Texas, and environs. The other Mineral Interest Owners have entered or in the near future will enter into similar contracts with Intratex.

[7] As detailed herein, the "diversion" alleged by El Paso is illusory because Mineral Interest Owners are not now making, nor have they made in the past, any sales of gas attributable to their mineral estate. Of course, in order to have a "diversion" of gas sales, there must be some existing sale from which the gas is diverted.

fore initiating sales to the purchaser of their choice (Intratex).

[105] For the reasons set forth herein, Mineral Interest Owners submit that the Commission should issue an order permitting Mineral Interest Owners to intervene in this proceeding as parties for all purposes, and find and declare that such Mineral Interest Owners are not required to obtain any prior Commission authorization in order to commence sales to Intratex of gas attributable to the mineral estate they will hold on termination of Gulf's lease on July 14, 1975. Any different result would be in irreconcilable conflict with the D. C. Circuit's decision in *Mobil Oil Corp.* v. *F.P.C.*,[8] would require the Commission to overrule its decision in *El Paso Natural Gas Co.* v. *Perry R. Bass*,[9] and would contravene the decision of the Supreme Court of Texas in *Gulf Oil Corp.* v. *Southland Royalty Co., supra.*

El Paso's petition presents strictly legal issues. Therefore, these legal issues can and should be decided by the Commission without hearing.[10] In view of the proximity of July 14, 1975, it is clearly in the public interest that the Commission issue its decision in this case as soon as possible. Mineral Interest Owners believe that the Commission can render a decision on the legal issues raised by El Paso based on the pleadings and documents attached thereto and on file with the Commission. However, in the event the Commission

[8] 463 F.2d 256 (D.C. Cir. 1971), *cert. denied*, 406 U.S. 976 (1972).

[9] Opinion No. 638, 48 F.P.C. 1269 (1972).

[10] El Paso's petition does not request a hearing.

should deem it desirable to permit the parties to file briefs in support of their positions, Mineral Interest Owners would suggest that simultaneous initial briefs be filed not later than March 31, 1975 and simultaneous reply briefs not later than April 14, 1975 or such earlier dates as the Commission should deem [106] appropriate in light of the obvious need for an early decision in this case.[11]

2.

Factual Background

As noted above, Mineral Interest Owners are the owners of the reversionary mineral estate underlying approximately 43,000 acres in Crane County, Texas. This mineral estate is presently subject to a 50-year fixed-term oil and gas lease[12] dated July 14, 1925, as

[11] In the event the Commission should direct the parties to file briefs, Mineral Interest Owners request that the Commission specify the issues to which such briefs should be directed. As pointed out in footnote 3, *supra*, the questions which El Paso requests the Commission to resolve are not only unduly complicated, but are framed in a manner clearly prejudicial to Mineral Interest Owners and contrary to the factual and legal situation.

[12] Such term oil and gas leases now are extremely rate, in fact almost unique. As early as 1928, it was recognized that fixed-term leases had "long been in disuse" and were "of no practical importance" in Texas. Walker, *The Nature of the Property Interests Created by an Oil and Gas Lease in Texas*, 7 Tex.L.Rev.1, 15 (1928). *See also* 3 Williams, Oil & Gas Law § 601.1; Brown, Law of Oil and Gas Leases § 5.01. Virtually all modern oil and gas leases provide for the leasehold estate to remain in effect as long as either oil or gas is produced in paying quantities. 2 Kuntz. Law of Oil & Gas § 26.1 at 244; 1A Summers, Law of Oil & Gas § 153 at 381.

amended March 16, [107] 1926,[13] between W. N. Waddell, et al (predecessors of Mineral Interest Owners), as Lessors, and Gulf Production Company (predecessor of Gulf), as Lessee.[14]

Mineral Interest Owners' only present interest in the casinghead gas being produced by Gulf from the lease is a royalty of 1/8th of 4¢ per Mcf for all casinghead gas produced and sold from said lease. Under this royalty provision, Mineral Interest Owners have no right to take gas in kind or to receive a royalty based on the price received by the lessee for the gas.[15] The lease specifically provides "that this lease shall not remain in force longer than 50 years from" the date thereof.[16] Any doubt as to the date of termination was removed in *Gulf Oil Corp.* v. *Southland Royalty Co., supra,*[17] where the Supreme Court of Texas held:

[13] Copies of this 50-year fixed-term oil and gas lease and amendment are attached to El Paso's petition as Exhibits A and B respectively. As noted in El Paso's petition (p. 3, fn. 1), this lease and amendment were recorded in the Deed Records of Crane County, Texas, thus putting parties such as El Paso on constructive notice of the terms and conditions of the lease, including the fact that it terminates on July 14, 1975. Tex. Rev. Civ. Stat. Ann. § 6646.

[14] El Paso's petition (p. 1) refers to six other lessees in addition to Gulf. However, it should be noted that each of these six other lessees obtained its interest as a result of an assignment of a small portion of Gulf's 50-year fixed-term lease and, therefore, took such leasehold interest subject to the same terms and conditions as Gulf. For simplicity, all current lessees will be referred to herein as "Gulf."

[15] Section 2 of the lease.

[16] Section 1, Paragraph 2 of the lease.

[17] A copy of this decison is attached to El Paso's petition as Exhibit D.

[108] "The duration of the estate granted is traditionally determined by the habendum clause. 2 Summers, The Law of Oil and Gas, Perm.Ed. § 303.1, p. 319. This need not be the case, for the instrument may provide elsewhere for the enlargement of the term stated in the habendum. *See* Standard Oil & Gas Co. v. Christian, 83 S.W.2d 408 (Tex.Civ.App.1935, writ ref'd); Humphrys v. Skelly Oil Co., 83 F.2d 989 (5th Cir. 1936). It is always a question of resolving the intention of the parties from the entire instrument. In looking to the place in this lease where we would expect to find the term stated, we find this very certain language 'Provided, that this lease shall not remain in force longer than fifty (50) years from this date . . .' With a plain and certain answer to the question of when the lease terminates, we cannot change that answer with words elsewhere in the lease not certainly directed to the same question. Moore v. Smith, 443 S.W.2d 552 (Tex. 1969); Cartwright v. Trueblood, 90 Tex. 535, 39 S.W. 930 (1897).

"The judgments below, declaring and adjudging the lease to terminate finally on July 14, 1975, are affirmed."

On January 26, 1951, Gulf executed a Residue Gas Purchase Agreement [18] (1951 Agreement) with El Paso under which Gulf agreed to sell and El Paso to purchase Gulf's "surplus residue gas" at the tailgate of Gulf's Waddell Gasoline Plant in Crane County, Texas.

[18] This contract is on file with the Commission as part of Warren's FPC Gas Rate Schedule No. 43.

As defined in Article I of the 1951 Agreement, the volumes of "surplus residue gas" to be sold were limited to volumes remaining after Gulf processed the gas in the Waddell plant, met all of its obligations under the terms of its oil and gas leases in the area, satisfied its fuel requirements for its drilling and plant operations, and met its obligations under an existing gas sales agreement.[19] Following [109] the *Phillips* decision,[20] Gulf received a certificate by order issued May 26, 1956 in Docket No. G-7156 authorizing this sale of "surplus residue gas" to El Paso.

On March 1, 1972, El Paso and Warren [21] entered into an additional Residue Gas Purchase Agreement (1972 Agreement) [22] covering additional volumes of surplus residue gas attributable to newly executed contracts between producers and Warren and renewals or extensions of existing contracts between producers and Warren. By order issued July 22, 1974 in Docket CI72-760, the Commission authorized the sale of additional surplus residue gas under the 1972 Agreement. Neither the 1951 Agreement nor the 1972 Agreement purports to cover any gas attributable to the mineral estate of Mineral Interest Owners.

[19] 1951 Agreement, Article I(d).

[20] *Phillips Petroleum Co.* v. *Wisconsin*, 347 U.S. 672 (1954).

[21] Following its acquisition of Warren Petroleum Corporation in 1957, Gulf conveyed its interest in the Waddell Plant, the gathering system associated therewith, and the 1951 Agreement to Warren. On December 31, 1971, Warren was merged into Gulf and now operates as a division of Gulf.

[22] This contract is on file with the Commission as a part of Warren's FPC Gas Rate Schedule No. 66.

As stated in its petition, El Paso takes delivery of the surplus residue gas which Warren has available at the tailgate of the Waddell Gasoline Plant and transports such gas through its jurisdictional facilities for ultimate consumption in interstate commerce. According to El Paso's petition, approximately 25,000 Mcf per day of the 60,000 Mcf per day of surplus residue gas which El Paso purchases at the tailgate of the Waddell Plant reflects gas production attributable to Gulf's leasehold estate under the 50-year fixed-term lease.[23]

[110] As previously noted, upon termination of Gulf's leasehold estate on July 14, 1975, Mineral Interest Owners propose to sell to Intratex the gas attributable to the fee simple mineral estate they will own upon termination of Gulf's leasehold estate.[24]

[23] In its petition, El Paso states (p. 5) that Southland, the Warren Wright Estate, and the Penn heirs (which comprise the Mineral Interest Owners) "collectively own 80% of the 50-year fixed-term lease gas and are considering its sale." Of course, these Mineral Interest Owners do not own any of the 50-year fixed-term lease gas since all such gas is attributable to Gulf's leasehold interest and is owned by Gulf. What Southland, the Warren Wright Estate, and the Penn heirs do own collectively is approximately 80% of the gas production which will be attributable to the fee simple mineral interests of all of the Mineral Interest Owners upon expiration of Gulf's 50-year fixed-term lease.

[24] Mineral Interest Owners do not know what disposition any of the other mineral interest owners have or intend to make of their share of the gas upon termination of Gulf's leasehold estate.

3.

Mineral Interest Owners Are Not Required To Obtain Abandonment Authorization Under Section 7(b) Before Initiating Sales of Gas to Intratex

There is no merit to El Paso's suggestion that Mineral Interest Owners must secure abandonment authorization under Section 7(b) of the Natural Gas Act before exercising their rights as mineral estate owners to make sales in the intrastate market of gas attributable to the mineral estate they will hold on July 14, 1975. This suggestion rests wholly on the invalid assumption that volumes of gas attributable to the mineral estate of Mineral Interest Owners have somehow been dedicated to the interstate market. However, as shown below, no such dedication has occurred, and therefore, Section 7(b) clearly does not apply to Mineral Interest Owners under the undisputed facts before the Commission in this case.

[111] Preliminarily, Mineral Interest Owners agree with El Paso's statement (p. 7) that once dedicated to interstate commerce, gas reserves may not be removed from interstate commerce without abandonment authorization.[25] But this legal conclusion begs the question of whether gas attributable to the mineral estate of Mineral Interest Owners has been dedicated to interstate commerce. Likewise, El Paso's reliance on *California* v. *Lo Vaca Gathering Co.*, 379 U.S. 366 (1965), is misplaced because there has been no physical movement of any gas attributable to the mineral estate of Mineral Interest Owners. Indeed, since the right of

[25] *Sunray Mid-Continent Oil Co.*, 364 U.S. 137 (1960).

such Mineral Interest Owners to market any gas attributable to their mineral estate will not even come into being until July 14, 1975, no gas attributable to such mineral estate could have been previously delivered by Gulf and no dedication of such gas could have occurred.

The Natural Gas Act comprehends that before jurisdiction attaches there must be a voluntary dedication of service to the interstate market. Only when a producer *chooses to sell* gas in interstate commerce and *commences deliveries* does he make himself a natural gas company.[26] In short, the Commission has no authority under the Natural Gas Act to compel a producer to sell his gas in interstate commerce. And although the Commission has the authority under Section 7(e) of the Act to condition certificates which it issues, a producer may reject a conditioned certificate offered by the Commission.[27]

It is likewise clear that gas may only be dedicated to the interstate market to the extent that a seller has the [112] authority to dispose of the gas involved. For example, if under a particular lease the lessee has the right to explore and develop only a specified portion of the mineral estate, i.e., only to a particular depth, the lessee can only dedicate to interstate commerce those volumes of gas which he has the right to produce and develop. By making sales of gas produced from his

[26] *Argo Oil Corp.*, 15 F.P.C. 601, 618 (1955); *Pioneer Gathering System*, 23 F.P.C. 260, 263 (1960). Section 7(e) of the Act requires that before issuing a certificate the Commission must find the applicant "willing" to perform the service.

[27] *Atlantic Refining Co.* v. *Public Service Comm'n*, 360 U.S. 378, 387-88 (1959).

lease under a certificate issued by the Commission, the lessee does not and cannot dedicate to interstate commerce gas not covered by the lease.

Similarly, the fact that Mineral Interest Owners retain a royalty interest under Gulf's term lease does not make them "sellers" of gas in interstate commerce within the meaning of the Natural Gas Act[28] and in no way dedicates gas attributable to their mineral estate to the interstate market. On this point, the decision in *Mobil Oil Corp.* v. *F.P.C., supra,*[29] is dispositive. In that case the Commission had held that the royalty provision in an oil and gas lease created an economic interest in interstate sales of gas and constituted a sale of gas for resale in interstate commerce so that landowners holding such royalty interests were natural gas companies subject to the Natural Gas Act. In reversing the Commission's [113] decision,[30] the Court of Appeals found that under "an ordinary lease by the landowner to the producer, there is neither a 'customary' sale in interstate commerce nor its equivalent in economic

[28] As noted by Judge Brown in *J. M. Huber* v. *Denman*, 367 F.2d 104 (5th Cir. 1966):

> ". . . there can be no 'sale' of gas by royalty owners since they have no gas to sell. And this seems to be true as a matter of oil and gas law whether based on the ownership-in-place concept followed by Texas and others or in non-ownership theories of other jurisdictions. For all agree that as the gas leaves the well-mouth the entire ownership of the gas is in the lessee, none being reserved in the lessor."
> (367 F.2d at 113-4.)

[29] Any discussion of this controlling case is conspicuously absent from El Paso's petition.

[30] Opinion No. 562, 42 F.P.C. 164.

effect.'"[31] Noting that execution of a conventional lease precedes the sale of natural gas, the court further concluded that royalty interests are "too far removed from the interstate sale" and, therefore, outside the Commission's control.[32]

The holding in *Mobil* is particularly applicable in this case because the royalty provision in Gulf's fixed-term lease is not related to the market price at which the gas is sold, but to 1/8th of 4¢ per Mcf for all casinghead gas. Therefore, the royalty interests of Mineral Interest Owners do not include a percentage interest in the gas sold by the lessee. Thus, these royalty interests are even farther removed from any possible jurisdictional sale of gas than those involved in *Mobil* and clearly do not subject gas attributable to the mineral estate of Mineral Interest Owners to the Commission's jurisdiction.

As applied to the instant case, the foregoing basic principles require the conclusion that any gas that may be produced from the mineral estate following the expiration of Gulf's 50-year fixed-term lease has not been and could not have been dedicated to interstate commerce by Gulf. Under its lease, Gulf possessed only a 50-year leasehold right and had no legal authority to provide for disposition of any gas produced therefrom beyond the termination date of the lease.[33] [114] Consequently, Gulf could not dedicate to the interstate

[31] 463 F.2d at 262.

[32] *Id.* at 262-263.

[33] In *Mobil*, the court noted that a lease gives a lessee *"all possessory interests in gas produced during the life of the lease"* (463 F.2d at 260) (emphasis supplied).

market volumes attributable to the mineral estate of Mineral Interest Owners, which volumes will be produced only after Gulf's lease-hold estate terminates.[34]

Moreover, El Paso's suggestion that Mineral Interest Owners must obtain Section 7(b) abandonment authorization before initiating sales to Intratex is clearly contrary to the principles enunciated by the Commission in rejecting similar contentions in *El Paso Natural Gas Co.* v. *Perry R. Bass.*[35] In that case, Bass had entered into a farmout agreement with Shell Oil Company under which Bass retained an overriding royalty and an option to convert such royalty interest into a one-half working interest within 30 days after payout. Under the contract, Shell had no authority to sell any gas attributable to Bass' working interest. Beginning in 1961, Shell sold gas from the property to El Paso under a certificate issued by the Commission. After payout occurred in 1972, Bass elected to convert his overriding royalty interest to a working interest and contracted to sell the gas to another pipeline. El Paso filed a complaint and petition for declaratory order with the Commission asserting that Bass was required to obtain "abandonment authorization pursuant to Section 7(b) of the Natural Gas Act, . . . prior to the diversion of natural [115] gas by Bass from its present movement in interstate commerce to El Paso."[36]

[34] It does not appear that Gulf has ever attempted to dedicate to El Paso any of the volumes of gas attributable to the mineral estate of Mineral Interest Owners. In any event, even if Gulf had attempted to sell gas attributable to the mineral estate of Mineral Interest Owners, El Paso was charged with notice of the limitations of Gulf's power to contract. *See* footnote 13, *supra*.

[35] Opinion No. 638, 48 F.P.C. 1269 (1972).

[36] Complaint of El Paso Natural Gas Company and Petition for

The Commission found that Bass was not a "natural gas company" within the meaning of the Natural Gas Act because Bass had not previously sold or transported gas attributable to his interest under the lease, and had not authorized Shell to do so." Since Bass had made no sale in interstate commerce for resale, he had rendered no service to the interstate market and was not within the reach of Section 7(b)." In particular, the Commission stated:"

> "*The thrust of El Paso's argument is that El Paso in some manner acquired a right to purchase that which Shell had no right to sell.* We will not so alter the basic property rights of mineral owners through the fiction of Section 7(b) application. *El Paso is charged with notice of the limitations on Shell's power to contract,* for such limitations preceded the Shell-El Paso Agreement by seven years and were express in the very instrument which marked Shells inception of title, the 1956 farmout agreement. We note that the Shell-El Paso gas contract did not purport to cover any gas save that [116] produced from 'the properties owned by Shell.' In law, Shell contemplated selling, and El

Issuance of a Declaratory Order, *El Paso Natural Gas Co.* v. *Perry R. Bass*, Docket No. RP73-45, filed September 26, 1972, at 1. *Compare* El Paso's request in the instant case for an order directing Mineral Interest Owners to secure Commission authorization before they can "divert natural gas from its present movement in interstate commerce . . ." (Petition at 1.)

[37] 48 F.P.C. at 1276.

[38] *Id.* at 1275-1276.

[39] *Id.* at 1276-1277.

Paso contemplated buying, Shell's gas. *Neither party can be heard to say that the gas contract can function to impair the pre-existing title of Bass, who was not a party to the gas contract and who could not have prevented its execution. El Paso's rights to purchase gas from the James Ranch Well can rise no higher than Shell's rights to sell that gas,* yet El Paso seeks that result by its claim that it is entitled to purchase Bass' gas until this Commission orders otherwise."

* * *

"At the time of the execution of the Shell-El Paso contract, and at the time of our certification of the sale and the facilities there provided for, *Bass was a royalty owner.* Bass so remained until the happening of the contingency-payout to Shell of its well costs—which triggered Bass' right to convert its royalty interest to a working interest. As a royalty owner, Bass was not a "seller" within the meaning of the Natural Gas Act and was not in any way subject to our jurisdiction. This is the express holding of *Mobil Oil Corp.* v. *F.P.C.*, 463 F.2d 256 (CADC-1971) cert. denied 406 U.S. 976 (1972), which overturned Opinion No. 562, 42 FPC 164. Section 7(b) operates only on "natural gas companies," that is, as defined in Section 2(6) of the Act, those who transport or sell for resale in interstate commerce. It follows, therefore, that Section 7(b) does not apply to Bass, since Bass is neither a seller or transporter at this time." (Emphasis supplied.)

The Commission's rationale in *Bass* is clearly applicable to this case. In both cases, the gravamen of El Paso's complaint has been substantively the same, i.e., that abandonment authorization under Section 7(b) was required prior to the "diversion" of natural gas from alleged present movement in [117] interstate commerce.[40] Likewise, in both cases, the thrust of El Paso's arguments has been that in some manner it acquired a right to purchase gas attributable to a mineral interest through dealings with an independent third party (Gulf) which had no right to sell such gas even though El Paso was on notice of the third party's limited rights.[41] Moreover, in the instant case, the mineral estate of the Mineral Interest Owners, unlike the option retained by Bass, has not been created from the lease under which the sales to El Paso are made. Since Mineral Interest Owners have no present or future interest in that lease, they are even further removed from the agreement with El Paso than was Bass. Thus, no conceivable basis exists for finding that gas from the mineral estate of Mineral Interest Owners has previously been dedicated to the interstate market, and as in *Bass* the Commission should find and declare that Mineral Interest Owners are not required to obtain abandonment authorization under Section 7(b) prior to commencing the sale of gas to Intratex.

El Paso futilely attempts to distinguish *Bass* on the grounds that (1) in *Bass,* the Commission did not consider whether a party in the position of Gulf must obtain abandonment authorization before the lessor may

[40] See footnote 36, *supra.*

[41] See footnote 13, *supra.*

"back in" to the working interest, and (2) in *Bass,* sales of gas were "diverted" from one interstate pipeline to another interstate pipeline while in this case the sale to Intratex will "divert" gas from the interstate to the intrastate market. Neither of these alleged distinctions undercuts in the slightest the controlling effect of the *Bass* decision on the issues raised by El Paso's petition. As detailed *infra* at pp. 17-20, there is absolutely no merit to El Paso's suggestion that Gulf must obtain abandonment authorization to "effectuate the transfer by reversion" to Mineral Interest Owners of their mineral estate upon termination of Gulf's 50-year fixed-term leasehold estate.[42]

[118] El Paso's "diversion" distinction likewise is meaningless because the holding in *Bass*—that a person who has not previously made or authorized a sale of gas in interstate commerce cannot be required to seek abandonment authorization—was clearly not based upon whether the purchaser to whom Bass sold his gas was an interstate or an intrastate pipeline. Moreover, despite El Paso's repeated assertions to the contrary, Mineral Interest Owners' sale of gas to Intratex will not divert gas from the interstate to the intrastate market. As previously noted, before any such "diversion" could occur, there must have been some prior dedication to the interstate market of the gas reserves attributable to the mineral estate of Mineral Interest Owners. But in light of *Bass* and *Mobil,* there has been no such dedication and therefore there will be no such diversion.

[42] We assume that El Paso's "back in" assertion is the same as its reference to "transfer by reversion."

4.

El Paso's Other Suggestions[43] Are Likewise Without Merit

El Paso suggests that Gulf must obtain abandonment authorization pursuant to Section 7(b) of the Act in order to "effectuate the transfer by reversion" to Mineral Interest Owners of the mineral estate which they will hold upon termination of Gulf's 50-year fixed-term lease on July 14, 1975. Undoubtedly El Paso is attempting to analogize the situation in this case to the situation where a lessee selling gas to an interstate pipeline voluntarily transfers his working interest to a third party who must obtain certification and continue the sale unless abandonment authorization is approved by the Commission. However, the Commission rejected a similar "suggestion" in *Bass* stating (48 F.P.C. at 1276):

[119] "The Commission recognizes the legal requirement that when an assignment of a lease occurs, the successor steps '* * * into the shoes of a predecessor [and] takes the properties * * * subject to any benefits and infirmities inherent therein'. *Graridge Corp., et al,* Opinion No. 408, 30 FPC 1156 at 1162. Shell took the James Ranch Lease subject to the infirmity that it could not sell Bass' gas, or bind Bass to a gas sales contract."

The same rationale applies in this case because Gulf-Warren could not sell the gas attributable to the min-

[43] As pointed out in footnote 3, *supra,* El Paso takes no position as to how the Commission should resolve the controversy which is the subject of El Paso's petition.

eral estate of Mineral Interest Owners or bind them to its gas sales contracts with El Paso.

Further, El Paso's "suggestion" is patently fallacious because upon termination of Gulf's leasehold estate on July 14, 1975, there will be nothing for Gulf to transfer to Mineral Interest Owners. It is an elementary rule of property law that for Gulf to "effectuate a transfer" Gulf must have a property right to convey. Upon expiration of the 50-year term lease, Gulf will have no right, title or interest in the minerals underlying that acreage and, therefore, will have no right which could be transferred or conveyed. This result necessarily follows from the fact than an oil and gas lease is a determinable fee which upon termination, for whatever reason, automatically vests the absolute fee simple title in the owner of the mineral estate less whatever minerals have been produced and marketed.[44] In this case Gulf's leasehold estate will simply cease to exist on July 14, 1975 at which time the fee simple title to the mineral estate will automatically vest in Mineral Interest Onwers. In light of the decision in *Gulf Oil Corp.* v. *Southland Royalty Co., supra,* Gulf could not prevent this vesting since it will have no residual legal interest in [120] the lease.[45] For the same reason, upon termination of its lease, Gulf will have no interest which it could transfer to Mineral Interest Owners. Thus, no "transfer by reversion" will take place over which

[44] *Duke* v. *Sun Oil Co.*, 320 F.2d 853, 858 (5th Cir. 1963).

[45] *See Haby* v. *Stanolind Oil & Gas Co.*, 228 F.2d 298, 305 (5th Cir. 1955), in which the court held the equitable rule against forfeiture could not be applied to a terminated lease since upon termination the lessee had no interest which could be forfeited.

the Commission could exercise its abandonment authority, even assuming that jurisdiction over such a transfer existed."[46]

El Paso also suggests that Warren may not reduce sales of residue gas to El Paso without prior Commission authorization."[47] The short answer to this "suggestion" is that although there will be a reduction in the actual volumes of residue gas delivered to El Paso after July 14, 1975, there will be no reduction in the volumes which Gulf-Warren contracted to sell to El Paso and which the Commission [121] certificated to be sold under such contracts."[48] As previously detailed, the contracts between Gulf-Warren and El Paso did not and could not include any volumes of gas attributable to the mineral estate of Mineral Interest Owners. Thus, there will be no reduction in the volumes of gas covered by the Gulf-Warren and El Paso contracts and the related certificates issued by the Commission and, therefore, it is clear

[46] Clearly the Commission has no jurisdiction under the Natural Gas Act to determine when or whether a mineral leasehold estate terminates. These are matters of state property law which are the exclusive concern of the courts. In this case, the Supreme Court of Texas has determined that Gulf's leasehold estate terminates on July 14, 1975. *Gulf Oil Corp.* v. *Southland Royalty Co., supra.* For the Commission to contravene this decision by holding that such lease did not terminate unless and until Gulf obtained Section 7(b) abandonment authorization would constitute an impermissible attempt to extent its authority to areas of purely local concern.

[47] El Paso does not cite the statutory authority for any such Commission authorization but presumably El Paso is referring to Section 7(b) abandonment authorization.

[48] In its petition, El Paso acknowledges that after July 14, 1975 Warren will continue to deliver to El Paso 35,000 Mcf per day of "surplus residue gas" in accordance with the subject contracts.

that Warren is not required to obtain any type of "prior Commission authorization"."[49]

Conclusion

For the foregoing reasons, Mineral Interest Owners respectfully request the Commission to issue an order without further hearing based upon the pleadings and documents on file with the Commission and, if the Commission should find necessary, on briefs to be filed by the parties, and in such order:

(a) permit Mineral Interest Owners to intervene in the captioned proceeding and to have all rights as a party thereto;

(b) grant El Paso's petition for declaratory order on the terms and conditions stated in the foregoing answer;

[122] (c) grant Mineral Interest Owners such other and further relief to which they may be entitled.

[49] The reason that Warren requires no "prior Commission authorization" to reflect the reduction in the actual volumes of gas delivered to El Paso on or after July 14, 1975 is analogous to the situation where there is a reduction in deliveries by an interstate seller due to the depletion of one or more wells on acreage covered by a certificated contract but deliveries of gas continue from the remaining wells.

Respectfully submitted,

/s/ J. Evans Attwell
J. Evans Attwell
Francis J. Coleman
Vinson, Elkins, Searls, Connally & Smith
2548 First City Ntional Bank Building
Houston, Texas 77002

Platt W. Davis III
William M. Sawyer
Vinson, Elkins, Searls, Connally & Smith
1701 Pennsylvania Avenue, N. W.
Washington, D. C. 20006

Attorneys for Mineral Interest Owners

March 3, 1976

[123] Exhibit A

MINERAL INTEREST OWNERS

Percentage Ownership of Mineral Estate
(Calculated on Acreage Basis)

	% Ownership
Southland Royalty Company	47.0
William Y. Penn, *et al,* Trustees	8.6
Trustees Under the Will of Warren Wright, Deceased	25.7
Total Mineral Interest Owners	81.3
Other Mineral Owners	18.7
TOTAL	100.00

[124] (Verification Omitted in Printing)

• • • • • • • • • • •

[125] (Certificate of Service Omitted in Printing)

• • • • • • • • • • •

[126] VINSON, ELKINS, SEARLS, CONNALLY & SMITH
ATTORNEYS AT LAW
1701 Pennsylvania Avenue, N.W.
Suite 1170
Washington, D. C. 20006
Tel.: AC 202 290-6550 Telex: 69050

March 5, 1975

Mr. Kenneth F. Plumb
Secretary
Federal Power Commission
825 N. Capitol Street, N. E.
Washington, D. C. 20426

Re: *El Paso Natural Gas Company,* Docket No. CP75-209

Dear Mr. Plumb:

On March 3, 1975, Mineral Interest Owners filed their petition to intervene and answer in the above-captioned proceeding. As a part thereof, there was included as Exhibit A a list of the parties comprising Mineral Interest Owners. Inadvertently, there was omitted from that exhibit certain persons on whose behalf such petition to intervene and answer was filed. Accordingly, I am enclosing herewith a revised copy of Exhibit A which sets forth in full those parties included within the group designated as Mineral Interest Owners.

In addition, I would point out an error in the first line of footnote 12 of the petition to intervene and answer filed by Mineral Interest Owners, *i.e.* the word "rate" should be changed to "rare." It would be

appreciated if the copies previously filed could be so corrected.

Copies of this letter and the attached revised Exhibit A are being served on all parties of record.

Yours very truly,

/s/ PLATT W. DAVIS III
Platt W. Davis III

[127] EXHIBIT A

Mineral Interest Owners

Percentage Ownership of Mineral Estate
(Calculated on Acreage Basis)

	% Ownership
Southland Royalty Company	47.0
William Y. Penn, *et al,* Trustees, Nancy Elizabeth Penson, Penn Resources, Inc., Elizabeth Hudson Penn	8.6
Trustees Under the Will of Warren Wright, Deceased	25.7
Total Mineral Interest Owners	81.3
Other Mineral Owners	18.7
TOTAL	100.00

[128] UNITED STATES OF AMERICA
BEFORE THE FEDERAL POWER COMMISSION

Docket No. CP75-209

EL PASO NATURAL GAS COMPANY

Petition to Intervene and Response of Gulf Oil Corporation

Comes now Gulf Oil Corporation (Gulf) and files this its Petition to Intervene and Response in the above proceeding:

I.

MAILING ADDRESS

All correspondence and communications concerning this matter should be with:

Warren M. Sparks, Attorney
Gulf Oil Corporation
P. O. Box 1589
Tulsa, OK 74102

Gulf is a corporation organized under the laws of the State of Pennsylvania and authorized to do business in the State of Texas and elsewhere.

II.

PETITION TO INTERVENE

Gulf is one of the parties against whom El Paso Natural Gas Company's (El Paso) Petition For Issuance of a Declaratory Order is directed. Gulf is therefore an essential party to any action the Commission

may take in this proceeding. However, since the Commission in its Notice of a Petition for a Declaratory Order issued January 30, 1975, stated that any person wishing to participate as a party in the proceeding must file a Petition to Intervene, Gulf, [129] as a precaution, moves to intervene in this proceeding and to participate in all phases thereof, including the presentation of testimony and cross-examination of witnesses. The basis for Gulf's right to intervene is the obvious fact that it is one of the principal parties upon which El Paso's Petition, if granted, would operate and as such is a necessary and indispensable party to any action the Commission might take.

III.

Statement of Position

Stated simply, it is Gulf's position that the facts and circumstances of this case do not require it to obtain any abandonment authorization from the Commission.

IV.

No Sale From Warren to Gulf

El Paso's Petition asks the Commission to resolve three questions. Stripped of excess verbage the first question is ". . . must Gulf Oil Corporation and other lessees under said certain 50-year fixed term lease, *who have been selling gas produced from said lease on a percentage-type basis to Warren Petroleum Corporation* for resale in interstate commerce, obtain abandonment authorization. . .?" (all emphasis added) This question is founded on apparent misapprehension of the facts. Gulf does not sell gas to Warren Petroleum

Corporation. There is no Warren Petroleum Corporation, only Warren Petroleum Company, a Division of Gulf Oil Corporation. A history of the situation may explain El Paso's confusion on this matter.

1. On January 26, 1951, El Paso entered into a contract with Gulf to purchase surplus residue gas available for sale from casinghead gas processed in Gulf's Waddell Plant in Crane County, Texas. A part of the gas processed was and is produced from Gulf's term leases described in El Paso's Petition. The Commission, by Order dated May 28, 1956, In The Matters of Howard W. Fleet, et al, issued a Certificate of Public Convenience and Necessity to Gulf in Docket No. G-7156. The Gulf-El Paso contract was amended from time to time to increase the volume of surplus residue gas covered by the sale. As a result the Commission issued Orders from time to time including one dated August 31, 1956 in Docket No. G-57156 and one [130] dated February 24, 1958, in Docket No. G-13445, amending the certificate to include these increased volumes.

2. Effective November 1, 1957, Gulf transferred to Warren Petroleum Corporation, a 100% owned subsidiary organized under the laws of the State of Delaware, certain facilities including the Waddell Plant with its related gathering lines and the Gulf-El Paso Gas Sales Contract dated January 26, 1951, as amended. Gulf retained all of its oil and gas leasehold interests, including the term leases here involved. Gulf entered into a percentage-type contract for the sale of casinghead gas from such term leases with Warren Petroleum Corporation. On October 31, 1957, Warren Petroleum Corporation filed an application with the Commission to assume the duties and obligations of Gulf and to be

substituted for Gulf in Gulf's certificates to sell surplus residue gas from the Waddell Plant to El Paso. By Order dated June 9, 1960, in Docket Nos. G-2585 et al and G-2682 et al, including Docket Nos. G-7156 and G-13445 covering the Waddell Plant sale, the Commission substituted Warren Petroleum Corporation for Gulf in said dockets and in Rate Schedule No. 43 related thereto.

3. Effective December 31, 1971, Warren Petroleum Corporation was merged into its parent corporation, Gulf Oil Corporation. As a result of this merger, all of Warren Petroleum Corporation's contractual rights and properties were from that date forward, and are now, owned by Gulf Oil Corporation, which assumed the duties, liabilities, obligations and duties of Warren Petroleum Corporation. Thence forward the properties previously owned by Warren Petroleum Corporation have been operated in the name of Warren Petroleum Company as a division of Gulf Oil Corporation, and Warren Petroleum Corporation ceased to exist as a legal entity.

On April 14, 1972, Warren Petroleum Company, a Division of Gulf Oil Corporation, filed a Petition in Docket No. G-4101 et al, including G-7156 and G-13445, to redesignate all of Warren Petroleum Corporation's rate schedules as rate schedules of Warren Petroleum Company, a Division of Gulf Oil Corporation. Attached to this Petition was a Certificate of Ownership and Merger and a certificate from the Secretary of the State of Delaware evidencing the merger. The Commission by Order dated August 2, 1970, in said Dockets, substituted Warren Petroleum Company, a Divi-

sion of Gulf Oil Corporation, for Warren Petroleum Corporation and accepted the notices of succession.

[131] Therefore there are no contracts for sale of gas between Warren Petroleum Corporation and Gulf Oil Corporation since Warren Petroleum Corporation no longer exists, and the contracts which once existed between the parties have been merged in Gulf Oil Corporation. It is elementary that a legal entity cannot have a contract with itself. Thus there can be no abandonment between the operating divisions of Gulf Oil Corporation within the meaning of Section 7(b) of the Natural Gas Act.

V.

No Partial Abandonment by Warren

The second question posed by El Paso involves the reversionary owners of the minerals under the fixed term leases and is of no concern to Gulf. The third question raised by El Paso is whether Warren Petroleum Corporation may "reduce its sales in interstate commerce of residue gas to El Paso, the present level of which is attributable in part to production from the fixed term leases". The short answer to this question is that there is no Warren Petroleum Corporation and therefore, no abandonment authorization could be required since the Commission has approved the substitution of Gulf for Warren Petroleum Corporation in its Order dated August 21, 1972, referred to above.

Presumably, El Paso would raise the same question with regard to the sale of residue by Warren Petroleum Company, a Division of Gulf Oil Corporation. If so, the answer is that Gulf does not propose to abandon

the delivery to El Paso of surplus residue gas available for sale from its Waddell Plant. The Supreme Court of Texas in *Gulf Oil Corporation et al vs. Southland Royalty Company, et al,* 496 S.W. 2d 547 (1972) held that the term leases will expire on July 14, 1975, and that on that date the mineral rights, including gas, under said leases will revert as a matter of law to the reversionary mineral interest owners, Southland Royalty Company, et al. Gulf's obligation under its Gas Sales Contracts with El Paso is to deliver the surplus residue gas which it has available for sale from the gas which it produces or purchases and processes in said plant.

Subsequent to July 14, 1975, Gulf will have no right, title or interest in the gas produced from the term leases. It will thenceforth belong to and be the exclusive property of the reversionary mineral interest owners in the term leases. Such gas will no [132] longer be "surplus residue gas" from said plant within the meaning of the Gulf-El Paso contracts.

Gulf intends to deliver to El Paso all of the surplus residue gas it has available for sale from said plant after July 14, 1975, for the full term of the contracts. This is the full measure of Gulf's obligation to El Paso. The fact that a portion of Gulf's gas supply will be lost by operation of law and will no longer be available for delivery after processing to El Paso constitutes no partial abandonment because Gulf intends to deliver to El Paso all surplus residue gas to which El Paso is entitled.

VI.

Conclusion

It is submitted that:

1. Gulf's Petition to Intervene in this proceeding should be granted.

2. There are no sales by Warren Petroleum Corporation to Gulf Oil Corporation and hence no abandonment of such sales is possible within the meaning of Section 7 (b) of the Act.

3. Warren Petroleum Company, a Division of Gulf Oil Corporation, intends to deliver to El Paso the full volume of surplus residue gas it has available for sale from the Waddell Plant after July 14, 1975, as before. While the partial loss of gas supply resulting from the expiration of the term leases on July 14, 1975 will inevitably reduce the volume of surplus residue gas available for delivery to El Paso, such fact does not constitute any abandonment by Gulf of its delivery obligation to El Paso.

El Paso's Petition as to Gulf Oil Corporation should be dismissed.

Respectfully submitted,

B. James McGraw
Warren M. Sparks

/s/ Warren M. Sparks
Attorneys for Gulf Oil Corporation

[133] (VERIFICATION OMITTED IN PRINTING)

• • • • • • • • • •

[134] (CERTIFICATE OF SERVICE OMITTED IN PRINTING)

• • • • • • • • • •

[135] UNITED STATES OF AMERICA
BEFORE THE FEDERAL POWER COMMISSION

Docket No. CP75-209

EL PASO NATURAL GAS COMPANY

(RECEIVED MARCH 24, 1975)

Answer of El Paso Natural Gas Company to Petition to Intervene and Response of Gulf Oil Corporation

EL PASO NATURAL GAS COMPANY ("El Paso"), pursuant to Sections 1.8 and 1.9 of the Commission's Rules of Practice and Procedure, hereby respectfully submits its answer to the petition to intervene and response of Gulf Oil Corporation ("Gulf")[1] respecting the petition for issuance of a declaratory order which was filed by El Paso in the above-styled and docketed proceeding on January 20, 1975.

I.

On January 20, 1975, El Paso, pursuant to Section 1.7(c) of the Commission's Rules of Practice and Procedure, filed with the Commission a petition for issuance of a declaratory order resolving the following questions: (i) Given the fact that, according to Texas law, a certain 50-year fixed term lease automatically terminates on July 14, 1975, and the mineral rights thereunder revert to the reversionary interest owners, must Gulf Oil Corporation and other lessees under

[1] Petition to Intervene and Response of Gulf Oil Corporation, Docket No. CP75-209 (filed March 3, 1975).

said certain 50-year fixed term lease, who have been selling gas produced from said lease on a percentage-of-the-proceeds basis to Warren Petroleum Corporation for resale in interstate commerce, obtain abandonment authorization pursuant to Section 7(b) of the Natural Gas Act ("Act") and Section 154.91 of the Commission's Regulations under the Natural Gas Act in order to cease such sales to Warren Petroleum Corporation and effectuate the transfer by reversion to Exxon Corporation, Southland Royalty Company, and other reversionary interest owners of the mineral rights under said certain 50-year fixed term lease? (ii) Given the facts set forth in (i), without prior Commission authorization, may Exxon Corporation, Southland Royalty Company, and other reversionary interests divert natural gas from its present movement in interstate commerce to delivery and sale in intrastate commerce? (iii) Given the [136] facts set forth in (i), without prior Commission authorization, may Warren Petroleum Corporation reduce its sales in interstate commerce of residue natural gas to El Paso, the present level of which is attributable in part to production from the lease in question?

II.

On March 3, 1975, Gulf timely filed a petition to intervene and response in this proceeding. Therein, Gulf states its position that the facts and circumstances of this proceeding do not require it to obtain any abandonment authorization from the Commission. In particular, Gulf addressed itself to the first and third issues raised by El Paso's petition. First, Gulf states that no contracts for the sale of the gas in question

exist between Gulf and Warren Petroleum Corporation because Warren Petroleum Corporation has been merged into Gulf and subsequently became Warren Petroleum Company, a division of Gulf; therefore, according to Gulf, Gulf need not obtain abandonment authorization in order to cease sales of the gas in question to Warren Petroleum Corporation. Second, Gulf alleges that no abandonment authorization could be required from Warren Petroleum Corporation to reduce its sales in interstate commerce of the residue natural gas in question to El Paso because Warren Petroleum Corporation does not exist. Gulf further alleges, however, that even if El Paso were to raise the same question with regard to the sale of residue gas by Warren Petroleum Company, no abandonment authorization would be required because subsequent to July 14, 1975, Gulf will no longer have a right, title, or interest in the gas produced from the 50-year fixed term lease and such gas after July 14, 1975, will no longer be surplus residue gas within the meaning of the Gulf-El Paso contracts; Gulf, therefore, will no longer have any obligation to deliver such gas to El Paso.

III.

Although El Paso does not accept Gulf's conclusions, El Paso accepts Gulf's clarification of the facts. In order to make El Paso's petition agree with the facts as outlined by Gulf, El Paso submits that Warren Petroleum Company should be substituted for Warren Petroleum Corporation in El Paso's petition herein.

IV.

Based on the facts as stated by Gulf, it appears that there are no sales by Warren Petroleum Corporation

to Gulf and hence no abandonment of such sales is possible within the meaning of Section 7(b) of the Act. The question, however, remains whether any other lessees under the 50-year fixed term lease, who have been selling gas produced from said lease to Warren Petroleum Company or Gulf, must obtain abandonment authorization under Section 7(b) of the Act to cease such sales.

[137] V.

Gulf alleges that "While the partial loss of gas supply resulting from the expiration of the term leases on July 14, 1975 will inevitability reduce the volume of surplus residue gas available for delivery to El Paso, such fact does not constitute any abandonment by Gulf of its delivery obligation to El Paso." Gulf mistakenly places undue emphasis on the contractual relationship between El Paso and Warren Petroleum Company. There is no question as to Warren Petroleum Company's contractual obligation to El Paso. The question, as stated by El Paso in its petition herein, is whether Warren Petroleum Company may reduce it *sales in interstate commerce* of residue gas to El Paso without prior Commission authorization. The circumstances which compelled El Paso to file its petition is the fact that the gas produced from the lease in question is at present physically moving in interstate commerce, not the fact that Warren Petroleum Company is at present contractually obligated to sell said gas to El Paso. As El Paso stated in its petition herein, it is well established that once natural gas is dedicated to interstate commerce it cannot be removed from interstate commerce without abandonment authorization pursuant to

Section 7(b) of the Act,[2] and it is also well established that natural gas is dedicated to interstate commerce, not by the contractual arrangements pertaining to it, but by the physical movement of the gas.[3] In the instant case, natural gas, the production of which will revert to the reversionary mineral interest owners on July 14, 1975, is presently moving in interstate commerce as it leaves the wellhead. Therefore, such gas should not be removed from interstate commerce without prior Commission clarification of issues as delineated in El Paso's petition.

VI.

WHEREFORE, for the foregoing reasons, El Paso Natural Gas Company respectfully requests that the Commission consider this answer to petition to intervene and response of Gulf Oil Corporation and respectfully requests that the Commission promptly act upon El Paso's petition for issuance of a declaratory order.

Respectfully submitted,

EL PASO NATURAL GAS COMPANY

/s/ By WALTER G. HENDERSON
Walter G. Henderson
Assistant Vice President

---

[2] Sunray Mid-Continent Oil Company v. FPC, 364 U.S. 137 (1960).

[3] California v. Lo Vaca Gathering Company, 379 U.S. 366 (1965).

[138]
G. Scott Cuming
Senior Vice President and General Counsel
Harris S. Wood
Arthur R. Formanek, Jr.
El Paso Natural Gas Company
Post Office Box 1492
El Paso, Texas 79978

C. Frank Reifsnyder
Hogan & Hartson
815 Connecticut Avenue
Washington, D.C. 20006

Counsel for

EL PASO NATURAL GAS COMPANY

Dated: March 12, 1975

[139] (VERIFICATION OMITTED IN PRINTING)

. . . . . .

[140] (CERTIFICATE OF SERVICE OMITTED IN PRINTING)

. . . . . .

[141] UNITED STATES OF AMERICA
BEFORE THE FEDERAL POWER COMMISSION

Docket No. CP75-209

EL PASO NATURAL GAS COMPANY

Filed March 17, 1975

Answer of Mineral Interest Owners to Petition of Mitchell Energy Corporation for Leave to Intervene

Mineral Interest Owners,[1] pursuant to Section 1.8(e) of the Commission's Rules of Practice and Procedure, hereby file their answer to the petition of Mitchell Energy Corporation (Mitchell) for leave to intervene in the above-captioned proceeding which involves a petition for declaratory order filed by El Paso Natural Gas Company (El Paso). Mineral Owners do not oppose the intervention of Mitchell, but believe that Mitchell's request for intervention is based on a misunderstanding of the issues involved herein.[2]

1.

As detailed in the petition to intervene and answer of Mineral Interest Owners filed March 3, 1974, the "controversy or uncertainty" which is the subject of El Paso's petition arises from the termination on

[1] Those parties comprising the group herein referred to as Mineral Interest Owners are set forth in Exhibit A attached hereto.

[2] Mitchell's misunderstanding of the issues involved is not surprising in light of the fact that El Paso's petition presents three complex questions in a manner clearly prejudicial to Mineral Interest Owners.

July 14, 1975 of the 50-year fixed term oil and gas lease held by Gulf Oil Corporation (Gulf) on certain acreage in Crane County, Texas. A portion of the gas attributable to Gulf's fixed-term leasehold estate [142] is sold to El Paso at the tailgate of the Waddell gasoline plant which is operated by Warren Petroleum Company, a division of Gulf Oil Corporation. Under established principles of Texas oil and gas law, Mineral Interest Owners will, upon termination of Gulf's fixed-term leasehold estate of July 14, 1975, hold fee simple title to their pro rata share of the mineral estate underlying the subject acreage.[3]

In other words, upon termination of the lease on July 14, 1975, Gulf will have no right, title or interest in any gas produced from and attributable to the fee simple mineral estate of Mineral Interest Owners. Prior to termination of the fixed-term lease, no sales will have been made of gas attributable to the fee simple mineral estate of Mineral Interest Owners and, consequently, no gas attributable to that interest could have been previously dedicated to the interstate market. Accordingly, Mineral Interest Owners have shown in their answer to El Paso's petition that they need not obtain Section 7(b) abandonment authorization before initiating sales of gas attributable to their mineral estate to the purchaser of their choice.[4]

---

[3] Any question concerning the termination date of this lease was conclusively resolved by the Supreme Court of Texas in *Gulf Oil Corp.* v. *Southland Royalty Co.*, 496 S.W. 2d 547 (Tex. Sup. Ct. 1973).

[4] Mineral Interest Owners have agreed to sell to Intratex Gas Company the gas attributable to the fee simple mineral estate they will hold on July 14, 1975 following the termination of Gulf's leasehold estate.

2.

As support for its petition for leave to intervene in this proceeding, "Mitchell submits that the issues presented in this case are similar in nature to those raised in Mitchell Energy Corporation, CI75-296."[5] From this premise, Mitchell [143] argues that its interest may be directly affected by any resolution of the issues presented by El Paso in its petition for declaratory order. Mineral Interest Owners have reviewed the filings and orders in *Mitchell Energy Corporation*, Docket No. CI75-296, and submit that the issues involved in this case are unrelated to those presented in Docket No. CI75-296.

In the *Mitchell* proceeding, an application for certificate of public convenience and necessity was filed to enable Mitchell "to continue to provide the same service to Tennessee as was provided by Gray Wolfe Inc., Mitchell's predecessor in interest in the Pinehurst Field in Montgomery County, Texas.[6] In its application, Mitchell states that it "acquired the interests of the Gray Wolfe Company in the Pinehurst Field and submits this Application as a successor in interest so as to continue to provide the same service to Tennessee from the Gray Wolfe interests in the Pinehurst Field.[7] Therefore, it is clear that the proceedings in Docket No. CI75-296 involve a typical successor-in-interest situation which the holder of an

---

[5] Petition of Mitchell Energy Corporation for Leave to Intervene, at 2.

[6] Application for a Certificate of Public Convenience and Necessity, Mitchell Energy Corp., Docket No. CI75-296, filed November 6, 1974, at 1.

[7] *See Id.* at 2.

existing lease sells its working interest in that lease to another party and the successor must take that working interest subject to existing contractual and regulatory limitations under which the seller is operating.[8]

In contrast, the instant proceeding presents a rare and nearly unique situation in which all interests held by the existing holder of the leasehold estate will terminate and expire on a future date. The leasehold owner (Gulf) has not, and indeed cannot under any principle of law, effect a transfer of any property right following termination of the lease. Therefore, Mineral Interest Owners will not, upon termination of the fixed-term leasehold estate, be successors [144] in interest to Gulf. On that date, Gulf will have no interest whatsoever in the mineral estate underlying the subject acreage and will have no interest to which Mineral Interest Owners could succeed. As a result, no basis exists for analogizing the instant case to the situation where a lessee (Gray Wolfe) voluntarily transfers his working interest to a third party (Mitchell) who must obtain certification and continue the sale unless abandonment authorization is approved by the Commission.[9]

3.

In view of the above, Mitchell Interest Owners submit that Mitchell's petition to intervene is based on a misunderstanding of the legal relationships between

[8] Graridge Corp., 30 FPC, 1156 (1963).

[9] *See* Opinon No. 638, *Perry R. Bass* v. *El Paso Natural Gas Co.*, 48 F.P.C. 1269, 1276 (1972).

the parties in this proceeding. As stated above, Mineral Interest Owners have no objection to the participation herein of Mitchell, but believe that Mitchell's position in Docket No. CI75-296 does not bear on the issues herein and that this proceeding cannot be used as a vehicle to litigate those issues.

Respectfully submitted,

/s/ J. Evans Attwell
J. Evans Attwell
Vinson, Elkins, Searls,
Connally & Smith
2548 First City National Bank
Building
Houston, Texas 77002
Platt W. Davis III
Vinson, Elkins, Searls, Connally
& Smith
1701 Pennsylvania Avenue, N. W.
Washington, D. C. 20006

Attorneys for Mineral Interest Owners

March 17, 1975

[145] (Certificate of Service Omitted in Printing)

• • • • • • • • • • •

[146]

Exhibit A

Mineral Interest Owners

Percentage Ownership of Mineral Estate
(Calculated on Acreage Basis)

	% Ownership
Southland Royalty Company William Y. Penn, *et al.*, Trustees, Nancy Elizabeth Penson, Penn Resources, Inc.,	47.0
Elizabeth Hudson Penn Trustees Under the Will of Warren Wright, Deceased	8.6 25.7
Total Mineral Interest Owners	81.3
Other Mineral Owners	18.7
TOTAL	100.00

[147]

UNITED STATES OF AMERICA
BEFORE THE FEDERAL POWER COMMISSION

Docket No. CI75-594

El Paso Natural Gas Company

Received April 9, 1975

Petition of Texaco Inc. for Issuance of a Declaratory Order

Texaco Inc. (Texaco) pursuant to Section 1.7(c) of the Commission's Rules of Practice and Procedure, hereby petitions for the issuance of a declaratory order applicable to Texaco in this proceeding, which order would resolve a legal issue identical to that raised by El Paso Natural Gas Company (El Paso) in its request for a declaratory order in this proceeding. The issue is whether a lessee, by making an interstate gas sale, can commit more than its real property interest (*i.e.*, its rights under its lease), thereby both encumbering forever the real estate and imposing upon the non-participating mineral fee owner the obligations of Section 7 of the Natural Gas Act.

As stated in Texaco's Petition for Leave to Intervene in this cause, Texaco is one of the reversionary mineral interest owners of property in Ector County, Texas, which property is currently leased to Gulf Oil Corporation (Gulf). This lease[1] will expire on August 7, 1975 by virtue of its 50-year fixed term pro-

[1] Attached hereto as Exhibit "A", recorded in Volume 18, page 551 of the Deed Records of Ector County, Texas.

vision. At that time Gulf's leasehold estate and Texaco's royalty interest are extinguished, and Texaco, as the owner of an unleased one-fourth mineral interest becomes the owner of all operating rights in such interest. It should be noted that Gulf's lease on the above-mentioned property contains exactly the same language (Paragraph 2)[2] concerning termination as does Gulf's lease on the Crane County property that is the subject of El Paso's petition for a declaratory order in this proceeding. This fact is easily verified by referring to Paragraph 2 [148] of the lease[3] which is attached as Exhibit "A" to El Paso's petition for a declaratory order. The only difference regarding termination is that Gulf's lease on the Ector County property will terminate on August 7, 1975, whereas Gulf's lease on the Crane County property will terminate on July 14, 1975, because of different dates of execution of the leases.

Texaco acquired its mineral fee, hereinafter referred to as its "Leon Goodman Mineral Fee," through a mineral deed dated May 4, 1929, a true conformed copy of which (recorded in Volume 27, page 624 of the deed records of Ector County, Texas) is attached hereto as Exhibit "B" and made a part hereof. The grantees conveyed to Texaco (then The Texas Company) one-fourth "of the oil, gas and other minerals, whether similar or dissimilar, as well as a like interest in and to the royalties and rentals due or to become due under any present valid lease . . ."

---

[2] Section 1 of the Ector County lease.

[3] Section 1 of the Crane County lease.

in the above-mentioned property in Ector County, Texas.

Texaco has knowledge of a casinghead gas sales contract through which Gulf in currently selling gas from the above-mentioned properties to Phillips Company (Phillips). Texaco is informed that Phillips sells, from the tailgate of its Goldsmith Plant in Ector County, Texas, the residue gas to El Paso through Phillips' Rate Schedule Nos. 7, 32, 33, 497 and 483.

As a royalty owner, Texaco is in no way a party to the present contract by which Gulf sells production from the above-mentioned property to Phillips. Neither is Texaco a party to the residue gas sales contracts through which Phillips sells gas from the Goldsmith Plant in Ector County to El Paso.

The above description of facts demonstrates that Texaco is in the same legal position as Exxon Corporation (Exxon) and Mineral Interest Owners as described in the pleadings of those two parties dated March 3, 1975. Texaco adopts the legal arguments made in both of those pleadings, but reserves its right to file formal briefs in this proceedings should the Commission desire further argument. In such case Texaco supports the briefing schedule suggested at page 5 of Exxon's above-mention pleading, which would call for simultaneous initial briefs by all parties to be due 30 days after the Commission acts upon Exxon's request. Texaco would also support Exxon's suggestion that simultaneous reply briefs by all parties would be due 20 days after the due date for initial briefs.

[149] In the event that the Commission issue a declaratory order without giving the parties an opportunity for further briefing, Texas requests that the Commission expressly hold that no abandonment is needed upon termination of Gulf's oil and gas leasehold estate, and that Texaco's Leon Goodman Mineral Fee is unencumbered by previous actions taken and commitments made by Gulf and by Phillips with respect to gas produced from Gulf's terminated leasehold estate.

Respectfully submitted,

TEXACO INC.

KIRK W. WEINERT
C. FIELDING EARLY, JR.
ROGER L. BRANDT
P. O. Box 52332
Houston, Texas 77052

By /s/ C. FIELDING EARLY, JR.
C. Fielding Early, Jr.
Attorney for Texaco Inc.

Houston, Texas

April 7, 1975

[150] (AFFIDAVIT OMITTED IN PRINTING)

• • • • • • • • • •

[151] (CERTIFICATE OF SERVICE OMITTED IN PRINTING)

• • • • • • • • • •

[152] **Exhibit "A"**

Form W. F. 189 "A"—11-54—1M

OIL AND GAS LEASE

THE STATE OF TEXAS,
County of Ector

SECTION 1.

Paragraph 1. KNOW ALL MEN BY THESE PRESENTS:

That We, Mrs. C. A. Goldsmith and Charley M. Goldsmith and wife Helen Goldsmith of Midland,

of the County of Midland, State of Texas, hereinafter called Lessor (whether one or more), ha've and by these presents do grant, lease, demise and let unto Gulf Production Company, hereinafter styled Lessee, the tract of land hereinafter described, with the exclusive right of exploiting the same for and producing oil and gas therefrom, and to that end also grant the exclusive right of drilling and operating thereon for oil and gas, together with rights of way for telephone and telegraph lines and right to lay pipe lines and operate the same for the purpose of conveying water, oil, steam and gas, to erect, maintain and use storage tanks, sheds and buildings for the purpose of storing and caring for the minerals which may be produced, and the right to have and use sufficient water, oil, gas, wood and coal from the premises, free of cost, to operate and drill any wells that Lessee may have or in the treating, so as to make merchantable, such minerals, and also such other privileges as are reasonably requisite for the conduct of said operations; and the right to remove, replace and substitute material and machinery, to draw and remove casing from abortive and abandoned wells, and at the termination of this lease to remove all property placed thereon by Lessee.

The said land is situated in Ector County, State of Texas, and described as follows:
All of Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 15, 16, 17, 18, 19, 20, 21, 22, 27 28, 29, 30, 33, 34, 35, 36, 39, 40, 45, 46 and 47, all in T. & P. RR Co. Survey Block 44, T-1-S.

$5.00 Documentary Stamps (Cancelled)

It is agreed that for the purpose of calculating rentals, both before and after partial surrender, as hereinafter provided, the leased land contains Nineteen Thousand Eight Hundred Forty (—19,840—) acres; nevertheless, all of the above described lands is embraced in this lease, be it more or less.

Par. 2. TO HAVE AND TO HOLD unto said Lessee and to Lessee's successors and assigns for the term of Twelve (12) years from the date hereof and as much longer thereafter as oil or gas (or other minerals, if produced hereunder) are produced from said land. Provided, that this lease shall not remain in force longer than fifty (50) years from this date, and provided further, that a temporary cessation of production due to ceasing out-working well or drilling deeper of any well, or similar causes occuring after production secured, shall not terminate this lease. And Lessor covenants that Lessor has good title to said land and will protect Lessee in the quiet and peaceable possession thereof.

Par. 3. Lessee agrees to begin operations for the drilling of a well on the premises within twelve (12) months from the date hereof, or, failing so to do, Lessee agrees to pay in the manner below stated for each six (6) months' period for which such drilling is delayed, not to exceed eighteen (18) such periods, the sum of $1,488.00 Dollars, such payment to be made on or before the beginning of each such period and shall be made by paying the same to the Lessor in person or to the First National Bank of Midland, Texas, or Lessee may mail Lessee's check to Lessor in said sum in care of said Bank, payable to Lessor, said Bank being hereby constituted Lessor's agent to receive said funds for Lessor or to receive and deliver said check to said Lessor, as the case may be; in either of the three methods of making such payment Lessee may use Lessee's check and the mailing of said check shall be deemed making payment; if Lessee shall fail to make such payment in advance as above provided, and such failure or default shall continue for thirty (30) days after the due date of such payment, Lessor shall have the right to forfeit this lease.

Par. 4. In the case of change of ownership of the land herein leased, or some part thereof, whether by descent and partition, devise, conveyance or otherwise, the above designated Bank shall become the Trustee for all the owners to receive and distribute the rentals among them, and the payment of the rentals to such Bank shall prevent forfeiture of this lease. In all cases where the original depositary Bank shall refuse to receive payment of rentals, or should go out of business, or consolidate with another Bank, the Lessor, or successors in interest, shall have the right to designate in writing some Bank as Trustee, and until such designation is made and Lessee notified in writing such rentals shall not be due and no forfeiture of this lease can be declared if such rental is paid within thirty (30) days after receipt of such notice by Lessee.

Par. 5. If while this lease is in force as herein provided, Lessee shall have begun operations in attempt to find oil or gas, then, without making any further payments Lessee may continue such attempt, and may make as many attempts as Lessee pleases; but if Lessee shall abandon such attempts for ninety (90) days without finding oil or gas in paying quantities, Lessee shall resume payment of the rentals falling due after the completion or abandonment of such well, at the next ensuing rental period beginning after such completion or abandonment; provided Lessee shall have at least ninety (90) days from the date of such abandonment of operations in which to make such payment and on resuming payment of rentals Lessee shall have the right to continue making the same or of beginning operations for the drilling of a well and to alternate such rights.

Par. 6. If operations shall not be begun on or before the expiration of ten (10) years from this date, this lease shall wholly terminate, but if, prior to the termination of such ten (10) years, Lessee shall have begun operations in attempt to find oil or gas and is engaged in such operations at the end of the ten-year period, then Lessee shall have the right to continue such operations and also to make as many additional attempts to find oil or gas as Lessee desires beyond the expiration of said ten-year period; provided, however, that these attempts at extending such rights beyond such ten years must be successive in the sense that, until oil or gas be found in paying quantities, not more than sixty (60) days shall elapse between the abandonment of work on one well and the beginning of operations on another, and provided further that this right to make attempts before the discovery of oil or gas shall not continue in any event longer than twelve (12) years from the date hereof.

BEST COPY AVAILABLE

Deleted "Lessor" & "Lessee" changing to Lessee & Lessor 8/14/28

SECTION 2.

Paragraph 1. If oil shall be found on said premises Lessee shall deliver as royalty to Lessor, free of expense, one-eighth (⅛) part of the oil saved from that produced, after deducting such part as may be used for drilling and operating on the land and treating the oil or gas so as to make it merchantable; such delivery to be made either into tanks supplied by Lessor with connections by Lessor provided, or into any pipe line that may be connected with the well; or Lessee may, at Lessee's option, buy such royalty oil, paying the current market price in the field at the time of production. If Lessee shall operate so as to save and utilize casinghead gas from said premises, then Lessee shall pay as royalty to Lessor one-eighth (⅛) part of the value of such gas, calculated at the rate of four (4) cents per one thousand (1,000) cubic feet of the casinghead gas, calculation as to quantity to be made on the basis of four (4) ounces pressure above atmospheric pressure at the temperature of sixty (60) degrees Fahrenheit, as royalty on such casinghead gas, and such royalty accruing in each six months' period, beginning from the date hereof, to be paid within thirty (30) days after expiration of such period. If any well on said premises shall produce natural gas in paying quantities, and such natural gas is used off the premises or marketed by Lessee, then Lessee shall be paid at the rate of Two Hundred ($200.00) Dollars per annum for each and every such well, such payment to be made on or before the end of each such year in which such well is brought in.

Par. 2. If, as result of any explorations under this contract any other minerals than oil or gas shall be found in quantities deemed by the Lessee to be paying, then Lessee shall have the optional right to mine for and produce the same, paying to the Lessor what, under all the circumstances, may be a reasonable royalty.

Par. 3. All money royalties may be paid to Lessor as provided in Paragraph 3 of Section 1 hereof. Should the interest owned by Lessor in said land prove to be less than the whole, the royalties and rentals to be paid hereunder shall be paid to the Lessor in proportion only that Lessor's interest is to the entire interest or whole.

SECTION 3.

Paragraph 1. It is agreed that, without the valid written consent of both parties hereto, no well shall be drilled, no shaft sunk, and no mining operations of any kind shall be carried on, within two hundred (200) feet of any dwelling houses now on said premises, and that the use of the surface of the land is hereby granted only so far as may be necessary or proper and convenient for the exercise of the rights herein granted.

SECTION 4.

Paragraph 1. The obligation of Lessee with respect to drilling offset wells shall be to drill such offset wells as a prudent, responsible operator would drill under the same conditions if he owned the land hereby leased, subject to the following provisions, to-wit: When an offset well is demandable under the above provisions, the Lessee shall have the option of either drilling such offset well or of paying a royalty with respect thereto calculated as follows—take the well, as to which an offset is demanded, as a center; transcribe a circle around it with a radius of three hundred feet; ascertain what proportion of the area of such circle falls within this lease; such proportion shall be the proportion of royalty which shall be paid on the production of the well as to which an offset is demandable; thus, if that portion of the area of the circle included in this lease is one-fourth of the total area, then one-fourth of the royalty which would be payable on the well to be offset if the same was on this lease shall be paid; Provided, that no well need be offset when there is a well practically or nearly between it and the line of this lease and such latter well has been offset, or royalty paid with respect thereto; Provided, further, if the Lessee so elects, an offset well may be drilled at any time, even after royalties have been paid, and, from the beginning of such well, no royalty shall be paid with respect to the well to be offset. Such royalty shall be a money royalty determined by the market value of the oil when produced. This provision shall also apply to gas wells provided the gas is marketable at the time and place.

SECTION 5.

Paragraph 1. Lessee further agrees to pay the actual cash value, at the time of destruction, of any growing crops destroyed on said leased premises by operations hereunder, or the reasonable damage to any such crops caused by such operations.

SECTION 6.

Paragraph 1. Lessee may pay off any lien or taxes now or hereafter due on or against said land; and if Lessee does so, Lessee shall be subrogated to all the rights of the holder of such lien or tax debt, and shall have a lien on all rentals and royalties accruing hereunder for reimbursement.

SECTION 7.

Paragraph 1. When drilling or other operations are delayed or interrupted by storm, flood, or other act of God, by fire, war, rebellion, scarcity of water, insurrection, riots, strikes, scarcity of labor, difficulties with employees, or failure of carriers to transport or furnish facilities for transportation, or as the result of some order, regulation or necessity of the Government, or as the result of any cause whatsoever beyond the control of the Lessee, the time of such delay or interruption shall not be counted against the Lessee—anything in this lease to the contrary notwithstanding.

SECTION 8.

Paragraph 1. Lessee is hereby given the right to surrender this lease at any time as to all or any part of the land hereby leased upon paying to the Lessor _____ cents per acre for each acre surrendered in addition to any sums that may be then due and accrued under the terms hereof, in the manner provided in Paragraph 3 of Section 1 hereof, and upon making such surrender the Lessee shall thereupon be released from all further payments, liabilities, or obligations as respects the land surrendered, and the rentals provided for in Paragraph 3 of Section 1 hereof shall be reduced by the proportion of acreage surrendered to the whole.

SECTION 9.

Paragraph 1. It is further agreed that all the conditions and terms herein shall extend to the heirs, executors, legal representatives, successors in interest and assigns, of the parties hereto; but no change of ownership of the land, or part thereof, shall impose any additional obligation or burden on the Lessee, and to that end Lessor hereby covenants for himself, his heirs, assigns and successors in interest, that in case of any change of ownership of said land, or part thereof, whether by conveyance, will, inheritance, partition, or otherwise, all rentals and royalties accruing hereunder shall be paid to the new owners in proportion to their ownership of the whole of the land hereby leased so that no owner of a segregated part of said land shall be entitled to the whole royalties accruing from developments on said segregated tract, but only to such part of such royalty as the acreage in his tract is to the whole acreage embraced in this lease; this covenant shall be taken and construed as a covenant running with the land and binding on all successors in interest to Lessor herein. The Lessee shall not be held responsible for the payment of such rentals or royalties to such new owner unless and until the Lessee shall be furnished with the instrument of transfer, or a duly certified copy thereof, and in case of no transfer in writing, with legally sufficient evidence thereof, such evidence of transfer to be furnished at least thirty (30) days before such royalties or rentals become due. If, by change in ownership, more than ten (10) separate parties become entitled to royalty, Lessee may require, before paying royalty, that such parties so entitled designate, in a writing furnished to the Lessee, one of their number, or a Trustee, to receive the payment of the royalty for all of them.

SECTION 10.

Paragraph 1. It is further agreed that in the event this Leasehold shall be assigned as to a part or as to parts of the above described lands (and such right of assignment is hereby given), and the Lessee or assignee or assignees shall fail or make default in the payment of the proportionate part of the rentals due from him or them, such default shall not operate to defeat or affect this lease, in so far as it covers a part or parts of said land upon which the said Lessee, or any assignee of the Lessee, shall make due payment of his proportionate part of said rental; but operations begun on any part of the leased premises will keep this lease in force as to all the premises upon which all rentals falling due prior to the beginning of such operations have been paid.

Par. 2. It is further agreed that in case of change of ownership of parts of the land, or of this leasehold, that the rentals shall be apportioned in accordance with the acreage such transferee or assignee becomes entitled to.

Par. 3. It is further agreed that any rentals paid and received hereunder shall constitute a consideration, not only for delay in drilling the well but for securing the right to pay future rentals to keep the lease in full force and effect until drilling is commenced, and any such rentals paid shall be deemed and considered as adequate consideration for all the rights herein granted.

$4,960.00

SECTION 11.

Paragraph 1. Lessee has this day paid to Lessor the sum of Ten Thousand Four Hundred Sixty and 00/100 (10,460.00) DOLLARS, the receipt of which is hereby acknowledged, which payment is received in full payment and satisfaction and is deemed sufficient consideration for each and every right hereby granted. It is stipulated and agreed that this instrument embraces the entire contract between the parties, and that no promises or representations of any kind not contained herein have been made to induce the execution of this contract.

IN TESTIMONY WHEREOF the parties hereto have duly executed this instrument, on this the 7th day of August, A. D. 1928, the parties hereto acting in person or by duly authorized agent.

Witnesses:

Mrs. C. A. Goldsmith
Mrs. Helen Goldsmith
Charley H. Goldsmith

Recorded Vol. 10
Page 551
Ector County, Texas

Lessor.

GULF PRODUCTION COMPANY,
Lessee.
By W. H. LOURCEY
Agent.

ACKNOWLEDGMENTS

THE STATE OF TEXAS,
County of MIDLAND } Before me, B. Ground

a Notary Public in and for the County of Midland and State of Texas, on this day personally appeared Mrs. C. A. Goldsmith, a widow, and Charley H. Goldsmith known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office on this the 7th day of August, A. D. 1928

(SEAL) B. GROUND
Notary Public,
In and for MIDLAND County, Texas.

THE STATE OF TEXAS,
County of TARRANT } Before me, ENE H. CRAIG

a Notary Public in and for the County of TARRANT and State of Texas, on this day personally appeared W. H. Lourcey known to me to be the person whose name is subscribed to the foregoing instrument as Agent of Gulf Production Company, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and as the act and deed of said Gulf Production Company.

Given under my hand and seal of office on this the 8th day of August, A. D. 1928

(SEAL) E. H. CRAIG
Notary Public,
In and for TARRANT County, Texas.

THE STATE OF TEXAS,
County of MIDLAND } Before me, B. GROUND

a Notary Public in and for the County of Midland and State of Texas, on this day personally appeared Mrs. Helen Goldsmith wife of Charley H. Goldsmith known to me to be the person whose name is subscribed to the foregoing instrument and having been examined by me privily and apart from her husband, and having the same fully explained to her, she, the said Mrs. Helen Goldsmith acknowledged such instrument to be her act and deed, and declared that she had willingly signed the same for the purposes and consideration therein expressed, and that she did not wish to retract it.

Given under my hand and seal of office on this the 7th day of August, A. D. 1928

(SEAL) B. GROUND
MIDLAND Notary Public,
In and for County, Texas.

[156]

No.....

OIL AND GAS LEASE

TEXAS

Mrs. C. A. Goldsmith Lease

TO

GULF PRODUCTION CO.

Post Office address of Lessor Authorized to receive rent, is

.....

Filed for Record this the.....day of

.....A. D. 192....., at.....

o'clock.....M.

.....

County Clerk.

By .....

Deputy.

Recorded....., A. D. 192.....

in ..... Record

of..... Book.....

Page.....

.....

County Clerk.

By .....

Deputy.

CLOUD CROOS & CO.

[157]

Exhibit "B"

[158]

5 55

MINERAL DEED

Know All Men by These Presents: That (we) Leon Goodman, and wife Rose H. Goodman; and Foy Proctor, and wife Hable E. Proctor,

of Midland, Texas, for and in consideration of the sum of ------Twenty Thousand and Nineteen-------Dollars ($20,019.00) cash in hand paid by The Texas Company, a Texas corporation, Grantee, do hereby GRANT, BARGAIN, SELL AND CONVEY unto the said THE TEXAS COMPANY One Fourth (1/4) of the oil, gas and other minerals, whether similar or dissimilar, as well as a like interest in and to the royalties and rentals due or to become due under any present valid lease thereon, on, in, or under, the following described tract of land in the County of Ector, Texas, to-wit:

All of sections Two (2), Three (3), Four (4), Five (5), Six (6), Seven (7), Eight (8), Nine (9), Ten (10), Eleven (11), Fifteen (15), Sixteen (16), Seventeen (17), Eighteen(18), Nineteen (19), Twenty (20), Twenty One (21), Twenty Two (22), Twenty Seven (27), Twenty Eight (28), Twenty Nine (29) Thirty (30), Thirty Three (33), Thirty Four (34), Thirty Five (35), Thirty Eight (38), Thirty Nine (39), Forty (40), Forty Five (45), Forty Six (46), and Forty Seven (47), Block Forty Four (44), Township One South(Twp.1-S), T. & P. R. R. Company Survey, Ector County Texas, and containing Twenty Thousand and Nineteen (20,019) acres, more or less.

7-1049-A

together with the rights of ingress and egress for the purpose of drilling or mining for, and producing, storing and transporting oil, gas and other minerals, and of erecting any and all necessary structures for such drilling, mining, transporting and storing, and erecting any and all buildings necessary or incident to such operation; with the right to remove any and all property of whatever kind or character placed on said premises.

It is agreed that The Texas Company, its successors or assigns, shall never be under obligation to drill or mine for oil or gas or other minerals, but that such mining or drilling, both before and after production, shall be wholly at the option of said grantee, its successors or assigns. [redacted]

TO HAVE AND TO HOLD the above described oil, gas and other minerals and the rights herein granted, all and singular, unto the said The Texas Company, its successors and assigns, forever; and we do hereby bind ourselves, our heirs, executors and administrators, to warrant and forever defend all and singular said oil, gas and other minerals and the rights herein granted unto the said The Texas Company, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

EXECUTED this the 4th day of May, A. D. 1929.

WITNESS:

Leon Goodman
Rose H. Goodman
Foy Proctor
Hable E. Proctor

THE STATE OF Texas }
COUNTY OF Midland } ss.

Before me, the undersigned authority, on this day personally appeared Leon Goodman and his wife, Rose H. Goodman, both known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes and consideration therein expressed; and the aforesaid wife having been examined by me privily and apart from her husband, and having the same fully explained to her, she acknowledged said instrument to be her act and deed, and declared that she had willingly signed the same for the purposes and consideration therein expressed, and that she did not wish to retract it.

Given under my hand and seal of office this 4th day of May, 1929.

B. Grossett
Notary Public in and for
Midland County, Texas.

[159] (VERIFICATION OMITTED IN PRINTING)

. . . . . .

[160] UNITED STATES OF AMERICA
FEDERAL POWER COMMISSION

Docket No. CI75-594

TEXACO INC.

(April 22, 1975)

Notice of Petition for a Declaratory Order

Take notice that on April 8, 1975, Texaco Inc. (Texaco), P.O. Box 52332, Houston, Texas 77052, filed in Docket No. CI75-594 pursuant to Section 1.7(c) of the Commission's Rules of Practice and Procedure (18 CFR 1.7(c)) a petition for a declaratory order to resolve Texaco's question of whether a lessee by making an interstate gas sale, can commit more than its real property interest (*i.e.*, its rights under its lease), thereby both encumbering forever the real estate and imposing upon the nonparticipating mineral fee owner the obligations of Section 7 of the Natural Gas Act, as more fully set forth in the petition which is on file with the Commission and open to public inspection.

The petition indicates that on August 7, 1925, Gulf Production Company, the corporate predecessor of Gulf Oil Corporation (Gulf), as lessee, executed a 50-year fixed term oil and gas lease with Goldsmith, *et al.*, lessors. The petition further indicates that by the terms of said lease Gulf obtained the exclusive right of exploiting 19,840 acres of land in Ector County, Texas, and producing oil and gas therefrom and that the leasehold estate expires on August 7, 1975, whereupon the mineral rights shall revert to the reversionary mineral

interest owners. Texaco states that it acquired a reversionary mineral interest ownership in the aforesaid property in Ector County, Texas, when on May 4, 1929, Goodman, *et al.*, conveyed to Texaco (then The Texas Company) one-fourth of the oil, gas and other minerals, and a like interest in the royalties under any lease, in the property.

Texaco states that Gulf is currently selling gas from the aforementioned properties to Phillips Petroleum Company (Phillips) under a casinghead gas sales contract and that Phillips sells, from the tailgate of its Goldsmith Plant in Ector County, Texas, the residue gas to El Paso Natural Gas Company (El Paso) under Phillip's FPC Rate Schedule Nos. 7, 32, 33, 497, and 483. Texaco states that, as a royalty owner, it is in no way a party to either the present contract by which Gulf sells production from the aforementioned property to Phillips or to the residue gas sales contracts under which Phillips sells gas from the Goldsmith Plant to El Paso.

[161] Texaco states that the question it raises in the instant petition is identical to a question raised by El Paso in its petition for declaratory order in Docket No. CP75-209.[1] Texaco alleges that based on the facts presented by El Paso in its petition in Docket No. CP75-209 the reversioners therein, including Exxon Corporation and Mineral Interest Owners, are in the same legal position as is Texaco in the instant factual setting. Texaco states that it adopts the legal arguments made in the pleadings of Exxon Corporation and Min-

[1] Notice of El Paso's petition was published in the Federal Register on February 7, 1975 (40 FR 5818).

eral Interest Owners, dated March 3, 1975, in the proceeding in Docket No. CP75-209, but reserves its right to file formal briefs in the instant proceeding should the Commission desire further argument.

In the event that the Commission issues a declaratory order without giving the parties an opportunity for further briefing, Texaco requests that the Commission expressly hold that no abandonment authorization is needed upon termination of Gulf's oil and gas leasehold estate, and that Texaco's reversionary mineral interest is unencumbered by previous actions taken and commitments made by Gulf and by Phillips with respect to gas produced from Gulf's terminated leasehold estate.

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 14, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB
Secretary

[162] UNITED STATES OF AMERICA
BEFORE THE FEDERAL POWER COMMISSION

Docket No. CP75-209

EL PASO NATURAL GAS COMPANY

(RECEIVED MAY 8, 1975)

Motion of El Paso Natural Gas Company for Briefing Schedule and Answer to Petition of Texaco Inc. for Issuance of a Declaratory Order

EL PASO NATURAL GAS COMPANY ("El Paso"), pursuant to Sections 1.9 and 1.12 of the Commission's Rules of Practice and Procedure, hereby respectfully submits its motion for briefing schedule, as hereinafter described, and its answer to the petition of Texaco Inc. ("Texaco") for issuance of a declaratory order, in the above-styled and docketed proceeding.

I.

On January 20, 1975, El Paso, pursuant to Section 1.7(c) of the Commission's Rules of Practice and Procedure, filed with the Commission a petition for issuance of a declaratory order resolving the following questions: (i) Given the fact that, according to Texas law, a certain 50-year fixed term lease automatically terminates on July 14, 1975, and the mineral rights thereunder revert to the reversionary interest owners, must Gulf Oil Corporation and other lessees under said certain 50-year fixed term lease, who have been selling gas produced from said lease on a percentage-of-the-proceeds basis to Warren Petroleum Corporation for resale in interstate commerce, obtain

abandonment authorization pursuant to Section 7(b) of the Natural Gas Act and Section 154.91 of the Commission's Regulations under the Natural Gas Act in order to cease such sales to Warren Petroleum Corporation and effectuate the transfer by reversion to Exxon Corporation, Southland Royalty Company, and other reversionary interest owners of the mineral rights under said certain 50-year fixed term lease? (ii) Given the facts set forth in (i), without prior Commission authorization, may Exxon Corporation, Southland Royalty Company, and other reversionary interests divert natural gas from its present movement in interstate commerce to delivery and sale in intrastate commerce? (iii) Given the facts set forth in (i), without prior Commission authorization, may Warren Petroleum Corporation reduce its sales in interstate commerce of residue natural gas to El Paso, the present level of which is attributable in part to production from the lease in question?

[163] II.

Southern California Gas Company ("SoCal"), Mobil Oil Corporation ("Mobil"), Southwest Gas Corporation ("Southwest Gas"), the People of the State of California and the Public Utilities Commission of the State of California ("California"), Texaco Inc. ("Texaco"), Exxon Corporation ("Exxon"), Mitchell Energy Corporation ("Mitchell"), Pacific Gas and Electric Company ("PGandE"), Gulf Oil Corporation ("Gulf"), and Mineral Interest Owners have filed petitions to intervene herein.[1] Only Gulf has

[1] Petitions to intervene by SoCal, Mobil, Southwest Gas, California, Texaco, Exxon, Mitchell, PGandE, Gulf, and Mineral Interest Owners were filed on February 6, 1975, February 10, 1975, February 14, 1975, February 18, 1975, February 19, 1975, February 18, 1975, February 25, 1975, February 28, 1975, March 3, 1975, and March 3, 1975, respectively.

disputed El Paso's statement of facts as set forth in El Paso's petition for issuance of a declaratory order herein. Gulf in its petition to intervene[2] stated that there is no Warren Petroleum Corporation because Warren Petroleum Corporation has been merged into Gulf and subsequently became Warren Petroleum Company, a division of Gulf, and that there are therefore no sales of the gas in issue between Gulf and Warren. By its answer to Gulf's petition to intervene, El Paso accepted Gulf's clarification of the facts although it did not accept Gulf's conclusions and submitted that Warren Petroleum Company should be substituted for Warren Petroleum Corporation. Therefore, there appears to be no dispute among any of the parties to the instant proceeding as to the material facts.

III.

The significant legal questions which were delineated by El Paso's petition herein, however, remain to be decided. Since the 50-year fixed term lease which is the subject of the instant proceeding expires on July 14, 1975, less than three months away, and since the Mineral Interest Owners propose to sell their share of natural gas in question to an intrastate buyer of gas[3] and consequently divert such gas from its present

[2] Petition to Intervene and Response of Gulf Oil Corporation, Docket No. CP75-209 (filed March 3, 1975).

[3] Petition to Intervene and Answer of Mineral Interest Owners to Petition for Declaratory Order, Docket No. CP75-209 (filed March 3, 1975).

movement in interstate commerce after July 14, 1975, El Paso submits that these legal issues should be decided with all deliberate speed. El Paso, therefore, proposes the following briefing schedule:

[164] Simultaneous initial briefs by all parties, including the Commission Staff, due to be filed on or before fifteen (15) days after the Commission acts upon this request.

Simultaneous reply briefs by all parties, including the Commission Staff, due to be filed on or before fifteen (15) days after the filing of initial briefs.[4]

IV.

On April 8, 1975, Texaco filed its petition for issuance of a declaratory order in this proceeding. Therein, Texaco alleged that it is in the same legal position as Exxon and the Mineral Interest Owners by reason of the fact that Texaco is a reversionary mineral interest owner of a 50-year fixed term lease similar to the 50-year fixed term lease which is the subject of El

[4] Exxon with Texaco's concurrence has requested the following briefing schedule:

Simultaneous initial briefs by all parties, including the Commission Staff, due to be filed on or before thirty days after the Commission acts upon this request.

Simultaneous reply briefs by all parties, including the Commission Staff, due to be filed on or before twenty days after the filing of initial briefs.

Answer of Exxon Corporation to Petition for Issuance of a Declaratory Order and Request for Briefing Schedule, Docket No. CP75-209 (filed March 3, 1975), and Petition of Texaco Inc. for Issuance of a Declaratory Order, Docket No. CP75-209 (filed April 8, 1975).

Paso's petition for a declaratory order herein. The lease involved in El Paso's petition covers properties located in Crane County, Texas, and expires on July 14, 1975, while the lease involved in Texaco's petition covers properties located in Ector County, Texas, and expires on August 7, 1975.[5] According to Texaco's petition, Gulf is the lessee of lease on the Ector County properties. Also according to Texaco's petition, Gulf is currently selling natural gas from the above-mentioned Ector County properties to Phillips Petroleum [165] Company (Phillips) pursuant to a casinghead gas sales contract[6] and Phillips is currently selling such gas to El Paso at the tailgate of Phillips' Goldsmith Plant[7] pursuant to Phillips' FPC Gas Rate Schedule Nos. 7, 32, 33, 497, and 483.[8]

V.

El Paso takes delivery of surplus residue gas into its pipeline system at the outlet at Phillips' Gold-

[5] A copy of this lease was attached to Texaco's petition as Exhibit "A".

[6] Phillips has informed El Paso that Gulf makes percentage-type sales to Phillips of casinghead gas produced from the acreage covered by the 50-year fixed term lease which appeared as Exhibit "A" to Texaco's petition herein.

[7] The Phillips' Goldsmith Plant is located in Ector County, Texas.

[8] The Commission granted certificates of public convenience and necessity authorizing the sale of residue gas to El Paso pursuant to Phillips' FPC Gas Rate Schedule Nos. 7, 32, 33, 483, and 497 at Docket No. G-2625, 16 F.P.C. 1440 (1956); Docket No. G-2625, 16 F.P.C. 1440 (1956); Docket No. G-3356, 16 F.P.C. 1442 (1956), amended by order issued June 12, 1961; Docket No. CI71-530 (issued April 23, 1971); and Docket No. CI72-590, 50 F.P.C. 390 (1973), supplemented by order issued July 22, 1974; respectively.

smith Plant and transports it through its jurisdictional facilities for subsequent resale in interstate commerce.[9] El Paso purchases, transports, and resells approximately 103 MMcf of such surplus residue gas daily. Approximately 18 MMcf daily of such surplus residue gas is attributable to production from wells on land in Ector County leased by Texaco and others pursuant to the 50-year fixed term lease, the subject of Texaco's petition herein.

VI.

Because the surplus residue gas produced from the 50-year fixed term lease covering the Ector County properties is presently moving in interstate commerce through El Paso's interstate pipeline system for resale, and because the provisions of the 50-year fixed term lease covering the Ector County properties are virtually identical with the provisions of the 50-year fixed term lease covering the Crane County [166] properties, El Paso submits that the Commission should resolve the legal issues raised by Texaco's petition as well as the legal issues raised by El Paso's petition. In particular the Commission's order should resolve the following questions as well as those questions raised by El Paso's petition:

(i) Given the fact that, according to Texas law, a certain 50-year fixed term lease automatically terminates on August 7, 1975, and the mineral rights thereunder revert to the reversionary interest owners, must Gulf and any other lessees under a certain 50-year fixed term lease, who have been selling gas produced from said lease on a percentage-of-the-proceeds basis to Phillips for resale in interstate commerce, obtain abandonment authorization pursuant to Section 7(b) of the Natural Gas Act and Section 154.91 of the Commission's Regulations under the Natural Gas Act in order to cease such sales to Phillips and effectuate the transfer by reversion to Texaco and other reversionary interest owners of mineral rights under said 50-year fixed term lease?

[9] At the following docket numbers, the Commission granted El Paso certificates of public convenience and necessity for the construction and operation of pipeline and compression facilities through which El Paso transmits gas from the Phillips' Goldsmith Plant in interstate commerce: G-655, 5 F.P.C. 115 (1946); G-1019, 8 F.P.C. 726 (1949); and G-1051, 7 F.P.C. 908 (1948).

(ii) Given the facts set forth in (i), without prior Commission authorization, may Texaco and other reversionary interest owners divert natural gas from its present movement in interstate commerce to delivery and sale in intrastate commerce?

(iii) Given the facts set forth in (i), without prior Commission authorization, may Phillips reduce its sales in interstate commerce of residue natural gas to El Paso, the pres-level of which is attributable in part to production from the lease in question?

VII.

WHEREFORE, for the foregoing reasons, El Paso Natural Gas Company hereby respectfully moves that

the Commission issue an order adopting the briefing schedule recommended in Section III, *supra*, and respectfully requests that Commission consider this answer to the petition of Texaco Inc. for issuance of a declaratory order filed in this proceeding.

Respectfully submitted,

EL PASO NATURAL GAS COMPANY

/s/ By WALTER G. HENDERSON
Walter G. Henderson
Assistant Vice President

[167]

G. Scott Cuming
General Counsel
El Paso Natural Gas Company
Post Office Box 2185
Houston, Texas 77001

Richard S. Morris
Assistant General Counsel
Harris S. Wood
Arthur R. Formanek, Jr.
El Paso Natural Gas Company
Post Office Box 1492
El Paso, Texas 79978

C. Frank Reifsnyder
Hogan & Hartson
815 Connecticut Avenue
Washington, D.C. 20006

Counsel for
EL PASO NATURAL GAS COMPANY

Dated: April 23, 1975

[168] (VERIFICATION OMITTED IN PRINTING)

. . . . . .

[169] (CERTIFICATE OF SERVICE OMITTED IN PRINTING)

. . . . . .

[170] UNITED STATES OF AMERICA
BEFORE THE FEDERAL POWER COMMISSION

Docket No. CI75-594

TEXACO INC.

(RECEIVED APRIL 30, 1975)

Motion of Texaco Inc. to Consolidate Proceedings

Texaco Inc. (Texaco) moves that its petition for declaratory order in Docket No. CI75-594 be consolidated for briefing (if further briefing takes place), hearing (if any) and decision with *El Paso Natural Gas Company,* Docket No. CP75-209. As stated in Texaco's above-mentioned petition, the legal issue to be decided, as well as the basic factual situation, is the same as that existing in Docket No. CP75-209. By allowing consolidation, the Commission can avoid duplication of briefing and otherwise save itself and all interested parties from going through duplicative actions.

Respectfully submitted,

TEXACO INC.
Kirk W. Weinert
C. Fielding Early, Jr.
Roger L. Brandt
P.O. Box 52332
Houston, Texas 77052

By /s/ C. Fielding Early, Jr.
C. FIELDING EARLY, JR.
Attorney for Texaco, Inc.

Houston, Texas

April 28, 1975

[171] (AFFIDAVIT OMITTED IN PRINTING)

. . . . . .

[172] (CERTIFICATE OF SERVICE OMITTED IN PRINTING)

. . . . . .

[173] UNITED STATES OF AMERICA
BEFORE THE FEDERAL POWER COMMISSION

Docket No. CI75-594
TEXACO INC.

(RECEIVED MAY 19, 1975)

Petition of El Paso Natural Gas Company for Leave to Intervene and Answer to Motion of Texaco Inc. to Consolidate Proceedings and Answer to Petition of Texaco Inc. for Issuance of a Declaratory Order

EL PASO NATURAL GAS COMPANY ("El Paso"), pursuant to Section 15 of the Natural Gas Act and Sections 1.8, 1.9, and 1.12 of the Commission's Rules of Practice and Procedure, hereby petitions for leave to intervene, answers the motion of Texaco Inc. ("Texaco") to consolidate proceedings, and answers the petition of Texaco for issuance of a declaratory order, all in the above-styled and docketed proceeding.

In support hereof, El Paso respectfully states:

I.

The names, titles, and mailing addresses of those persons to whom correspondence and communications concerning this matter are to be addressed are as follows:

Mr. Walter G. Henderson
Assistant Vice President
El Paso Natural Gas Company
Post Office Box 1492
El Paso, Texas 79978

Mr. Robert N. Harbor
El Paso Natural Gas Company
310 Suffridge Building
1775 K Street, N.W.
Washington, D.C. 20426

The exact legal name of El Paso is El Paso Natural Gas Company. It is a corporation duly organized and existing under the laws of the State of Delaware, having its principal place of business located in El Paso, Texas. El Paso is a wholly-owned subsidiary of The El Paso Company, which is also a corporation duly organized and existing under the laws of the State of Delaware havings its principal place of business [174] located in Houston, Texas. El Paso is authorized to conduct business as a foreign corporation in the States of Alaska, Arizona, Arkansas, Colorado, Idaho, Kansas, Louisiana, Montana, Nevada, New Mexico, New York, North Dakota, Oklahoma, Oregon, Texas, Utah, Washington, and Wyoming.

II.

El Paso is a "natural-gas company" engaged in the business of producing, purchasing, transporting, and selling natural gas to distribution companies and other pipeline companies for resale and to industries and others for direct consumption. El Paso's interstate pipeline system extends from the Permian Basin area of west Texas and southeast New Mexico, the Texas-Oklahoma Panhandle area, the San Juan Basin of northwest New Mexico and southwest Colorado, and the Four Corners area of the States of Arizona, New Mexico, Utah, and Colorado, through one or more of the States of Texas, New Mexico, Utah, Colorado,

and Arizona, to points of termination at the boundary between the States of California and Arizona near Blythe, California, and Topock, Arizona, and to a point of termination at the boundary between the States of Arizona and Nevada near Big Bend, Arizona. El Paso also owns and operates an intrastate pipeline system, situated in the State of Texas, which serves consumers in the El Paso, Texas, area and fuel requirements at certain of El Paso's plants and stations on its interstate system. The gas which is the subject hereof goes into El Paso's interstate system.

III.

On April 8, 1975, Texaco filed its petition for issuance of a declaratory order in this proceeding to resolve whether a lessee, by making an interstate gas sale, can commit to that sale more than its real property interest (*i.e.*, its rights under its lease), thereby both encumbering forever the real estate and imposing upon the nonparticipating mineral fee owner the obligations of Section 7 of the Natural Gas Act.[1] Therein, Texaco alleges that it is a reversionary mineral interest owner of a 50-year fixed term lease on properties in Ector County, Texas, and that the mineral rights shall revert to the reversionary mineral interest owners, including Texaco, on August 7, 1975, which is the date the leasehold estate expires. Texaco's petition further alleges that Gulf Oil Corporation ("Gulf") is the lessee of said 50-year fixed term lease and that Gulf is currently selling natural gas

[1] Petition of Texaco Inc. for Issuance of a Declaratory Order, Docket No. CI75-594 (filed April 8, 1975).

[175] from properties covered by said 50-year fixed term lease to Phillips Petroleum Company ("Phillips") pursuant to a casinghead gas sales contract. Also according to Texaco's petition, Phillips is currently selling such gas to El Paso at the tailgate of Phillips' Goldsmith Plant pursuant to Phillips FPC Gas Rate Schedule Nos. 7, 32, 33, 497, and 483.

On April 30, 1975, Texaco filed its motion to consolidate for briefing, hearing, and decision its petition for issuance of a declaratory order herein with the proceeding at *El Paso Natural Gas Company*, Docket No. CP75-209. By said motion to consolidate, Texaco stated that the legal issue to be decided, as well as the basic factual situation, is the same in the instant proceeding as that existing in Docket No. CP75-209.

IV.

El Paso submits that it has direct and substantial interests in this proceeding which interests are not and cannot be represented by any other party. El Paso takes delivery each day at Phillips' Goldsmith Plant of approximately 18,000,000 cubic feet of surplus residue gas attributable to production from acreage covered by the 50-year fixed term lease referred to in Texaco's petition herein. This gas is transported through El Paso's jurisdictional facilities for subsequent resale in interstate commerce. Since October 31, 1972, El Paso has been forced to curtail service from its interstate system on a virtually continuous basis because of the increasing shortage of natural gas available to El Paso. The instant proceedings will deal with the future disposition of a significant volume of natural gas. Accordingly, El

Paso desires to intervene herein in order to protect its interests and the interests of its jurisdictional customers.

V.

El Paso supports the motion of Texaco to consolidate the instant proceedings with Docket No. CP75-209. As stated by Texaco in both its petition for issuance of a declaratory order and its motion to consolidate proceedings herein, the legal issue to be decided, as well as the basic factual situation, is virtually identical to that addressed by El Paso's petition for issuance of a declaratory order which was filed in Docket No. CP75-209.[2]

[176]

VI.

El Paso has already filed at Docket No. CP75-209 on April 25, 1975, its "Motion of El Paso Natural Gas Company for Briefing Schedule and Answer to Petition of Texaco Inc. for Issuance of a Declaratory Order" responding to Texaco's petition for issuance of a declaratory order which was filed by Texaco at that docket. El Paso attaches herewith said response and incorporates and adopts said response as its answer herein at Docket No. CI75-594 to Texaco's petition.

VII.

WHEREFORE, El Paso Natural Gas Company, having an interest which will be directly affected and may

[2] Petition of El Paso Natural Gas Company for Issuance of a Declaratory Order, Docket No. CP75-209 (filed January 20, 1975).

be adversely affected by the Commission's action herein, respectfully requests that it be granted leave to intervene as a party and with all rights of a party, and, for the foregoing reasons, hereby respectfully requests that the Commission consider this answer to the motion of Texaco Inc. to consolidate proceedings and this answer to the petition of Texaco Inc. for issuance of a declaratory order. El Paso does not request that Texaco's petition be made the subject of a formal hearing but instead requests that the expedited briefing schedule suggested by El Paso's answer appended hereto be adopted.

Respectfully submitted,

EL PASO NATURAL GAS COMPANY

/s/ By Arthur R. Formanek, Jr.
ARTHUR R. FORMANEK, JR.
One of Counsel

G. Scott Cuming
General Counsel
El Paso Natural Gas Company
Post Office Box 2185
Houston, Texas 77001

Richard S. Morris
Assistant General Counsel
Harris S. Wood
Arthur R. Formanek, Jr.
El Paso Natural Gas Company
Post Office Box 1492
El Paso, Texas 79978

[177]
C. Frank Reifsnyder
Hogan & Hartson
815 Connecticut Avenue
Washington, D.C. 20006

Counsel for

EL PASO NATURAL GAS COMPANY

Dated: May 5, 1975

[178] (VERIFICATION OMITTED IN PRINTING)

. . . . . .

[179] (CERTIFICATE OF SERVICE OMITTED IN PRINTING)

. . . . . .

[180] UNITED STATES OF AMERICA
BEFORE THE FEDERAL POWER COMMISSION

Docket No. CP75-209

El Paso Natural Gas Company

Motion of El Paso Natural Gas Company for Briefing Schedule and Answer to Petition of Texaco Inc. for Issuance of a Declaratory Order

EL PASO NATURAL GAS COMPANY ("El Paso"), pursuant to Sections 1.9 and 1.12 of the Commission's Rules of Practice and Procedure, hereby respectfully submits its motion for briefing schedule, as hereinafter described, and its answer to the petition of Texaco Inc. ("Texaco") for issuance of a declaratory order, in the above-styled and docketed proceeding.

I.

On January 20, 1975, El Paso, pursuant to Section 1.7(c) of the Commission's Rules of Practice and Procedure, filed with the Commission a petition for issuance of a declaratory order resolving the following questions: (i) Given the fact that, according to Texas law, a certain 50-year fixed term lease automatically terminates on July 14, 1975, and the mineral rights thereunder revert to the reversionary interest owners, must Gulf Oil Corporation and other lessees under said certain 50-year fixed term lease, who have been selling gas produced from said lease on a percentage-of-the-proceeds basis to Warren Petroleum Corporation for resale in interstate commerce, obtain abandonment authorization pursuant to Section 7(b) of the Natural Gas Act and Section 154.91 of the

Commission's Regulations under the Natural Gas Act in order to cease such sales to Warren Petroleum Corporation and effectuate the transfer by reversion to Exxon Corporation, Southland Royalty Company, and other reversionary interest owners of the mineral rights under said certain 50-year fixed term lease? (ii) Given the facts set forth in (i), without prior Commission authorization, may Exxon Corporation, Southland Royalty Company, and other reversionary interests divert natural gas from its present movement in interstate commerce to delivery and sale in intrastate commerce? (iii) Given the facts set forth in (i), without prior Commission authorization, may Warren Petroleum Corporation reduce its sales in interstate commerce of residue natural gas to El Paso, the present level of which is attributable in part to production from the lease in question?

[181] II.

Southern California Gas Company ("SoCal"), Mobil Oil Corporation ("Mobil"), Southwest Gas Corporation ("Southwest Gas"), the People of the State of California and the Public Utilities Commission of the State of California ("California"), Texaco Inc. ("Texaco"), Exxon Corporation ("Exxon"), Mitchell Energy Corporation ("Mitchell"), Pacific Gas and Electric Company ("PGandE"), Gulf Oil Corporation ("Gulf"), and Mineral Interest Owners have filed petitions to intervene herein.[1] Only Gulf has

[1] Petitions to intervene by SoCal, Mobil, Southwest Gas, California, Texaco, Exxon, Mitchell, PGandE, Gulf, and Mineral Interest Owners were filed on February 6, 1975, February 10, 1975, February 14, 1975, February 18, 1975, February 19, 1975, February 25, 1975, February 28, 1975, March 3, 1975, and March 3, 1975, respectively.

disputed El Paso's statement of facts as set forth in El Paso's petition for issuance of a declaratory order herein. Gulf in its petition to intervene[2] stated that there is no Warren Petroleum Corporation because Warren Petroleum Corporation has been merged into Gulf and subsequently became Warren Petroleum Company, a division of Gulf, and that there are therefore no sales of the gas in issue between Gulf and Warren. By its answer to Gulf's petition to intervene, El Paso accepted Gulf's clarification of the facts although it did not accept Gulf's conclusions and submitted that Warren Petroleum Company should be substituted for Warren Petroleum Corporation. Therefore, there appears to be no dispute among any of the parties to the instant proceeding as to the material facts.

III.

The significant legal questions which were delineated by El Paso's petition herein, however, remain to be decided. Since the 50-year fixed term lease which is the subject of the instant proceeding expires on July 14, 1975, less than three months away, and since the Mineral Interest Owners propose to sell their share of natural gas in question to an intrastate buyer of gas[3] and consequently divert such gas from its present

[2] Petition to Intervene and Response of Gulf Oil Corporation, Docket No. CP75-209 (filed March 3, 1975).

[3] Petition to Intervene and Answer of Mineral Interest Owners to Petition for Declaratory Order, Docket No. CP75-209 (filed March 3, 1975).

movement in interstate commerce after July 14, 1975, El Paso submits that these legal issues should be decided with all deliberate speed. El Paso, therefore, proposes the following briefing schedule:

[182] Simultaneous initial briefs by all parties, including the Commission Staff, due to be filed on or before fifteen (15) days after the Commission acts upon this request.

Simultaneous reply briefs by all parties, including the Commission Staff, due to be filed on or before fifteen (15) days after the filing of initial briefs.[4]

IV.

On April 8, 1975, Texaco filed its petition for issuance of a declaratory order in this proceeding. Therein, Texaco alleged that it is in the same legal position as Exxon and the Mineral Interest Owners by reason of the fact that Texaco is a reversionary mineral interest owner of a 50-year fixed lease similar to the 50-year fixed term lease which is the subject of El

[4] Exxon with Texaco's concurrence has requested the following briefing schedule.

Simultaneous initial briefs by all parties, including the Commission Staff, due to be filed on or before thirty days after the Commission acts upon this request.

Simultaneous reply briefs by all parties, including the Commission Staff, due to be filed on or before twenty days after the filing of initial briefs.

Answer of Exxon Corporation to Petition for Issuance of a Declaratory Order and Request for Briefing Schedule, Docket No. CP75-209 (filed March 3, 1975), and Petition of Texaco Inc. for Issuance of a Declaratory Order, Docket No. CP75-209 (filed April 8, 1975).

Paso's petition for a declaratory order herein. The lease involved in El Paso's petition covers properties located in Crane County, Texas, and expires on July 14, 1975, while the lease involved in Texaco's petition covers properties located in Ector County, Texas, and expires on August 7, 1975.[5] According to Texaco's petition, Gulf is the lessee of lease on the Ector County properties. Also according to Texaco's petition, Gulf is currently selling natural gas from the above-mentioned Ector County properties to Phillips Petroleum [183] Company (Phillips) pursuant to a casinghead gas sales contract[6] and Phillips is currently selling such gas to El Paso at the tailgate of Phillips' Goldsmith Plant[7] pursuant to Phillips' FPC Rate Schedule Nos. 7, 32, 33, 497, and 483.[8]

V.

El Paso takes delivery of surplus residue gas into its pipeline system at the outlet at Phillips' Gold-

[5] A copy of this lease was attached to Texaco's petition as Exhibit "A".

[6] Phillips has informed El Paso that Gulf makes percentage-type sales to Phillips of casinghead gas produced from the acreage covered by the 50-year fixed term lease which appeared as Exhibit "A" to Texaco's petition herein.

[7] The Phillips' Goldsmith Plant is located in Ector County, Texas.

[8] The Commission granted certificates of public convenience and necessity authorizing the sale of residue gas to El Paso pursuant to Phillips' FPC Gas Rate Schedule Nos. 7, 32, 33, 483, and 497 at Docket No. G-2625, 16 F.P.C. 1440 (1956); Docket No. G-2625, 16 F.P.C. 1440 (1956); Docket No. G-3356, 16 F.P.C. 1442 (1956), amended by order issued June 12, 1961; Docket No. C171-530 (issued April 23, 1971); and Docket No. C172-590, 50 F.P.C. 390 (1973), supplemented by order issued July 22, 1974; respectively.

smith Plant and transports it through its jurisdictional facilities for subsequent resale in interstate commerce.* El Paso purchases, transports, and resells approximately 103 MMcf of such surplus residue gas daily. Approximately 18 MMcf daily of such surplus residue gas is attributable to production from wells on land in Ector County leased by Texaco and others pursuant to the 50-year fixed term lease, the subject of Texaco's petition herein.

VI.

Because the surplus residue gas produced from the 50-year fixed term lease covering the Ector County properties is presently moving in interstate commerce through El Paso's interstate pipeline system for resale, and because the provisions of the 50-year fixed term lease covering the Ector County properties are virtually identical with the provisions of the 50-year fixed term lease covering the Crane County [184] properties, El Paso submits that the Commission should resolve the legal issues raised by Texaco's petition as well as the legal issues raised by El Paso's petition. In particular the Commission's order should resolve the following questions as well as those questions raised by El Paso's petition:

(i) Given the fact that, according to Texas law, a certain 50-year fixed term lease automatically terminates on August 7, 1975, and the mineral rights thereunder revert to the reversionary interest owners, must Gulf and any other lessees under a certain 50-year fixed term lease, who have been selling gas produced from said lease on a percentage-of-the-proceeds basis to Phillips for resale in interstate commerce, obtain abandonment authorization pursuant to Section 7(b) of the Natural Gas Act and Section 154.91 of the Commission's Regulations under the Natural Gas Act in order to cease such sales to Phillips and effectuate the transfer by reversion to Texaco and other reversionary interest owners of mineral rights under said 50-year fixed term lease?

(ii) Given the facts set forth in (i), without prior Commission authorization, may Texaco and other reversionary interest owners divert natural gas from its present movement in interstate commerce to delivery and sale in intrastate commerce?

(iii) Given the facts set forth in (i), without prior Commission authorization, may Phillips reduce its sales in interstate commerce of residue natural gas to El Paso, the pres-level of which is attributable in part to production from the lease in question?

VII.

WHEREFORE, for the foregoing reasons, El Paso Natural Gas Company hereby respectfully moves that the Commission issue an order adopting the briefing

---

*At the following docket numbers, the Commission granted El Paso certificates of public convenience and necessity for the construction and operation of pipeline and compression facilities through which El Paso transmits gas from the Phillips' Goldsmith Plant in interstate commerce: G-655, 5 F.P.C. 115 (1946); G-1019, 8 F.P.C. 726 (1949); and G-1051, 7 F.P.C. 908 (1948).

schedule recommended in Section III, *supra*, and respectfully requests that Commission consider this answer to the petition of Texaco Inc. for issuance of a declaratory order filed in this proceeding.

Respectfully submitted,

EL PASO NATURAL GAS COMPANY

/s/ By WALTER G. HENDERSON
Walter G. Henderson
Assistant Vice President

[185]

G. Scott Cuming
General Counsel
El Paso Natural Gas Company
Post Office Box 2185
Houston, Texas 77001

Richard S. Morris
Assistant General Counsel
Harris S. Wood
Arthur R. Formanek, Jr.
El Paso Natural Gas Company
Post Office Box 1492
El Paso, Texas 79978

C. Frank Reifsnyder
Hogan & Hartson
815 Connecticut Avenue
Washington, D.C. 20006

Counsel for

EL PASO NATURAL GAS COMPANY

Dated: April 23, 1975

[186] (VERIFICATION OMITTED IN PRINTING)

• • • • • • • • • •

[187] (CERTIFICATE OF SERVICE OMITTED IN PRINTING)

• • • • • • • • • •

[188] UNITED STATES OF AMERICA
BEFORE THE FEDERAL POWER COMMISSION

Docket No. CP75-209

EL PASO NATURAL GAS COMPANY

Response of Mineral Interest Owners to Motion for Briefing Schedule

Mineral Interest Owners,[1] pursuant to Section 1.12 of the Commission's Rules of Practice and Procedure, hereby submit their response to the motion of El Paso Natural Gas Company (El Paso) for establishment of an expedited briefing schedule with respect to the questions raised in its petition for declaratory order filed in the above-mentioned proceeding. Mineral Interest Owners believe that the Commission can and should issue a decision in this case based upon the pleadings and documents heretofore filed with the Commission. However, if the Commission should determine that additional briefing is necessary, Mineral Interest Owners support El Paso's motion insofar as it proposes an expedited briefing schedule. Nevertheless, Mineral Interest Owners respectfully submit that the Commission should specify the issues to which briefs should be directed, rather than adopting the questions presented by El Paso, because El Paso's questions are clearly framed in a manner prejudicial to the rights of Mineral Interest Onwers and present an inaccurate and incomplete picture of the legal

[1] Those parties comprising Mineral Interest Owners are set forth in Exhibit A attached to the Petition to Intervene and Answer of Mineral Interest Owners to Petition for Declaratory Order, as corrected by letter dated March 5, 1975.

relationship between the parties. In support hereof, Mineral Interest Owners shows as follows:

1.

On January 20, 1975 El Paso filed a petition for declaratory order requesting resolution of three questions involving the sale of gas from certain acreage in Crane [189] County, Texas. On March 3, 1975, Mineral Interest Owners filed their petition to intervene and answer to the petition for declaratory order. Mineral Interest Owners included therein certain additional facts which El Paso had not presented to the Commission in its petition, but took the position that these facts were uncontroverted and that El Paso's petition presented strictly legal issues. Consequently, Mineral Interest Owners proposed that if the Commission did not decide the issues on the basis of the pleadings, it could and should decide the controversy without a hearing. In this regard, Mineral Interest Owners proposed a briefing schedule which would have permitted the Commission to resolve these issues at an early time. Mineral Interest Owners pointed out, however, that the questions framed by El Paso were unduly complicated, and were framed in a manner clearly prejudicial to Mineral Interest Owners and contrary to the legal relationships between the parties.

2.

On April 23, 1975, El Paso filed a motion requesting that the Commission establish an expedited briefing schedule for resolution of the three questions presented by El Paso. In its motion, El Paso agreed

that only legal questions remain to be decided and that since the 50-year fixed term lease which has given rise to this controversy expires on July 14, 1975, a speedy resolution of the issues involved is clearly desirable. Therefore, El Paso proposed the following briefing schedule:[2]

> Simultaneous initial briefs by all parties, including the Commission Staff, due to be filed on or before fifteen (15) days after the Commission acts upon this request.
>
> Simultaneous reply briefs by all parties, including the Commission Staff, due to be filed on or before fifteen (15) days after the filing of initial briefs.

[190] El Paso further proposed that issues raised by Texaco, Inc. in a petition filed in Docket No. CI75-594 should be resolved simultaneously.[3]

3.

Mineral Interest Owners fully support the position of El Paso that this case may be decided without a hearing. As set forth in its petition to intervene and answer, Mineral Interest Owners believe that the Commission can render a decision on the legal issues raised by El Paso based on the pleadings and documents attached thereto and on file with the Commission, and the materials submitted by the various parties herein. However, in the event the Commission believes that further briefing is appropriate, Mineral Interest Own-

[2] Motion for Briefing Schedule at 3.

[3] Mineral Interest Owners take no position on this question.

ers support the suggestion of El Paso that such briefing be conducted in an expedited manner on the schedule proposed by El Paso. Indeed, Mineral Interest Owners believe it is imperative that the controversy be resolved so that on July 14, 1975 there can be no question that Mineral Interest Owners have the right to dispose of the natural gas attributable to their leasehold interests to the purchaser of their choice.[4]

Nevertheless, Mineral Interest Owners submit that if additional briefing is to be required, the Commission should specify the questions on which it requests additional comment. The questions framed by El Paso in its petition for declaratory order are presented in such a manner that the real issues before the Commission are obscured. For example, with respect to Mineral Interest Owners, El Paso has suggested that the question is whether Mineral Interest Owners and other reversionary interest owners may "divert natural gas from its present movement in interstate commerce to delivery and sale in intrastate commerce."[5] This is not the real question [191] herein and presents a highly distorted view of the legal relationships between the parties. Mineral Interest Owners' petition to intervene and answer makes clear that no gas attributable to their interests has ever been delivered or sold in interstate commerce. Therefore, despite El Paso's attempt to suggest otherwise, there will be no

[4] Mineral Interest Owners have agreed to sell to Intratex Gas Company (Intratex) the gas attributable to the fee simple mineral estate they will hold on July 14, 1975 following termination of the existing leasehold estate.

[5] Petition for Declaratory Order at 1, 8.

"diversion" from the interstate market when Mineral Interest Owners commence their sales to Intratex. Because of this and other efforts to obfuscate the legal issues herein, it will clearly be necessary for the Commission to recast the questions presented by El Paso in a manner that will neutrally present the true issues before the Commission.

Wherefore, for the foregoing reasons, Mineral Interest Owners respectfully submit that, in the event the Commission should find further briefing by the parties necessary, the Commission should issue an order adopting the briefing schedule proposed by El Paso. In such order, the Commission should specify the issues to which briefs should be directed in a manner that will fairly state the issues before the Commission.

Respectfully submitted,

/s/ PLATT W. DAVIS III
J. EVANS ATTWELL
FRANCIS J. COLEMAN
VINSON, ELKINS, SEARLS, CONNALLY & SMITH
2548 First City National Bank Building
Houston, Texas 77002

PLATT W. DAVIS III
WILLIAM M. SAWYER
VINSON, ELKINS, SEARLS, CONNALLY & SMITH
1701 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

Attorneys for Mineral Interest Owners

May 7, 1975

[192] (CERTIFICATE OF SERVICE OMITTED IN PRINTING)

. . . . . .

[193] UNITED STATES OF AMERICA
BEFORE THE FEDERAL POWER COMMISSION

Docket No. CI75-594

Texaco, Inc.

Petition to Intervene of Mineral Interest Owners

Pursuant to Section 15(a) of the Natural Gas Act, 15 U.S.C. §717n(a), and Section 1.8 of the Commission's Rules of Practice and Procedure, Mineral Interest Owners[1] hereby petition the Commission for leave to intervene in the above-captioned proceeding. In support thereof, Mineral Interest Owners respectfully show as follows:

1.

All communications concerning this petition should be addressed as follows:

J. Evans Attwell[2]
Vinson, Elkins, Searls, Connally & Smith
2548 First City National Bank Building
Houston, Texas 77002

Platt W. Davis III[2]
Vinson, Elkins, Searls, Connally & Smith
1701 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

---

[1] Those parties comprising the group designated as Mineral Interest Owners are set forth in Appendix A hereto.

[2] These persons should be included on the Commission's official service list; however, it is respectfully requested that the other person designated receive service copies of all correspondence, communications, pleadings and other documents filed in or relating to this proceeding.

[194]
I. John Brumley
1600 First National Building
Fort Worth, Texas 76102

2.

Mineral Interest Owners are the owners of a reversionary mineral estate underlying acreage in Crane County, Texas. This mineral estate is presently subject to a 50-year fixed term oil and gas lease which will terminate on July 14, 1975. Upon termination of the leasehold estate, Mineral Interest Owners will hold fee simple title to their pro rata share of the mineral estate underlying the subject acreage. Mineral Interest Owners either have entered or will enter into contracts for the sale of the gas attributable to the fee simple mineral estate they will hold on July 14, 1975 to Intratex Gas Company, an intrastate buyer of gas. In Docket No. CP75-209, El Paso Natural Gas Company has filed a petition for declaratory order asserting, *inter alia*, that Mineral Interest Owners must secure Commission authorization before making this sale. Mineral Interest Owners have responded that both the interests of Mineral Interest Owners and the sale to Intratex are non-jurisdictional and that the Commission has no authority to review these transactions.

3.

On April 8, 1975, Texaco, Inc. (Texaco) filed in the above-captioned proceeding a petition for declaratory order to resolve the question "whether a lessee, by making an interstate gas sale, can commit more than it real property interest (i.e., its rights under

its lease), thereby encumbering forever the real estate and imposing upon the non-participating mineral fee owner the obligations of Section 7 of the Natural Gas Act." Among other things, Texaco asserts that this question has arisen because of its ownership of a reversionary mineral estate in land which is presently subject to a 50-year fixed term lease which will expire on August 7, 1975. Referring to the pleadings in Docket No. CP75-209, Texaco claims that its situation is identical to that of Mineral Interest Owners.

[195] 4.

Mineral Interest Owners have a substantial and vital interest in the outcome of this proceeding and desire to intervene in order to protect that interest. Mineral Interest Owners are interested parties in this proceeding within the meaning of Section 15(a) of the Natural Gas Act, 15 U.S.C. 717n(a), and its intervention and participation in this proceeding will be in the public interest. Mineral Interest Owners are not now, and will not be, adequately represented by any other party to this proceeding, and may be bound or adversely affected by the Commission's action herein.

Wherefore, for the foregoing reasons, Mineral Interest Owners respectfully request that the Commission issue an order granting it leave to intervene and admitting it as a party to this proceeding with the right to have notice of and appear at all hearings and prehearing conferences, to produce evidence and present witnesses, to be heard by counsel and other representatives, to submit briefs, to make oral argument,

if oral argument be heard, and to do all things which any party may properly do.

Respectfully submitted,

/s/ Platt W. Davis III
J. Evans Attwell
Francis J. Coleman
First City National Bank Building
Houston, Texas 77002

Platt W. Davis III
William M. Sawyer
Vinson, Elkins, Searls, Connally & Smith
1701 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

Attorneys for Mineral Interest Owners

May 12, 1975

[196] APPENDIX A

Mineral Interest Owners

Percentage Ownership of Mineral Estate

(Calculated on Acreage Basis)

	% Ownership
Southland Royalty Company	47.0
William Y. Penn, *et al.*, Trustees, Nancy Elizabeth Penson, Penn Resources, Inc., Elizabeth Hudson Penn	8.6
Trustees Under the Will of Warren Wright, Deceased	25.7
Total Mineral Interest Owners	81.3
Other Mineral Owners	18.7
TOTAL	100.0

[197] (Verification Omitted in Printing)

• • • • • • • • • • •

[198] (Certificate of Service Omitted in Printing)

• • • • • • • • • • •

[199] UNITED STATES OF AMERICA
FEDERAL POWER COMMISSION

Docket No. CI75-594

Texaco Inc.

(Received May 12, 1975)

Petition to Intervene and Response of Gulf Oil Corporation to Petition of Texaco Inc. for a Declaratory Order

Comes Now Gulf Oil Corporation (Gulf) and files this its Petition to Intervene and Response to the Petition of Texaco Inc. (Texaco) for issuance of a Declaratory Order in the above proceeding. Texaco's Petition was originally filed in El Paso Natural Gas Company Docket No. CP75-209, but was redesignated as styled above by the Commission in its Notice of Petition for Declaratory Order issued April 22, 1975.

I.

Mailing Address

All correspondence and communications concerning this matter should be addressed to:

B. James McGraw, Attorney
Warren M. Sparks, Attorney
Gulf Oil Corporation
P.O. Box 1589
Tulsa, Oklahoma 74102

II.

Gulf is a corporation organized under the laws of the State of Pennsylvania and authorized to do business in the State of Texas and elsewhere.

[200]

III.

Petition to Intervene

Gulf is the owner of the fixed term oil and gas lease referred to in Texaco's Petition and attached thereto as Exhibit "A". As such, Gulf is the owner of the gas produced from said lease and sold to Phillips Petroleum Company (Phillips), the residue gas from which is sold by Phillips to El Paso Natural Gas Company (El Paso). Gulf is therefore an essential party to any action the Commission may take in this proceeding. Gulf moves to intervene in this proceeding and to participate in all phases thereof, including the presentation of testimony and the cross-examination of witnesses in the event of a hearing.

IV.

Statement of Position

It is Gulf's position that the facts and circumstances of this case do not require it to obtain any abandonment authorization from the Commission.

V.

The Facts

Texaco's Petition correctly states that Texaco is one of the reversionary mineral owners of the minerals in properties in Ector County, Texas, which were described in and leased to Gulf pursuant to an oil and gas lease, a copy of which is attached as Exhibit "A" to Texaco's Petition. This lease will expire as to Texaco's interest at midnight on August 7, 1975, at which time Texaco will become the owner of an

unleased one-fourth mineral interest under the lands described [201] therein. Texaco acquired its mineral fee pursuant to a mineral deed dated May 4, 1962, a copy of which it attached as Exhibit "B" to Texaco's Petition.

Gulf is currently selling casinghead gas produced from the lands described in the fixed term lease to Phillips, pursuant to the terms of a percentage type Casinghead Gas Contract dated November 9, 1971, a copy of which, marked Exhibit "A", is attached hereto and incorporated herein. Gulf is informed and believes that Phillips processes said gas at its Goldsmith Plant in Ector County, Texas, and sells the surplus residue gas to El Paso through various Phillips Rate Schedules. Texaco is not a party to Gulf's Casinghead Gas Contract with Phillips.

VI.

On the basis of the above facts Gulf agrees that Texaco has the same legal position as Exxon and the Mineral Interest Owners (MIO) as described in the pleadings of said parties filed in Docket No. CP75-209.

Upon termination of the lease as to Texaco's interest on August 7, 1975, Gulf will have no right, title or interest to any gas produced from or attributable to the fee mineral interest estate of Texaco. Prior to termination of the fixed term lease no sales will have been made of gas attribuable to the fee simple mineral estate of Texaco, and consequently no gas attributable to that interest could have been previously dedicated to the interstate market. Accord-

ingly, Gulf need obtain no Section 7(b) abandonment authorization upon termination of said [202] fixed term lease. *El Paso Natural Gas* v. *Perry R. Bass*, 48 FPC 1269 (1972).

VII.

No Need For Hearing

Gulf agrees that there are no disputed facts, and that the legal questions involved in this proceeding, as well as in Docket No. CP75-209, should be determined by the Commission on briefs. Time is of the essence, so that all parties, including Gulf, may be advised of their legal rights before the termination of the leases. The lease involved in the El Paso proceeding terminates July 14, 1975, and the lease in this proceeding on August 7, 1975. Gulf therefore supports the briefing schedule suggested by Exxon on page 5 of its Answer in Docket CP75-209, calling for simultaneous briefs of all parties to be due 30 days after the Commission acts on Exxon's request, and simultaneous reply briefs by all parties within 20 days after the due date for initial briefs.

VIII.

Conclusion

It is submitted that (1) Gulf's petition to intervene in this proceeding should be granted; and (2) no abandonment authorization under Section 7(b) of the Natural Gas Act may be secured by Gulf.

Respectfully submitted,

/s/ Warren M. Sparks
Warren M. Sparks
B. James McGraw

Attorneys for Gulf Oil Corporation
P.O. Box 1589
Tulsa, Oklahoma 74102

[203] (Affidavit Omitted in Printing)

. . . . . .

[204] (Certificate of Service Omitted in Printing)

. . . . . .

[205]

. . . . . .

Form 3269 CH-T 1-71—37370-D

GOLDSMITH PLANT
#10-C, 11-C and 34-D

CASINGHEAD GAS CONTRACT

206
[206]

THIS CONTRACT entered into this 9th day of November, 1971
between GULF OIL CORPORATION
, "Seller", and PHILLIPS PETROLEUM COMPANY, "Buyer":

Seller agrees to sell to Buyer and Buyer agrees to purchase from Seller casinghead gas produced from wells now or hereafter located on the following described land in Andrews and Ector Counties, State of Texas, to wit:

344

#34 - C. A. Goldsmith et al., Lease No. 11030 - Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 15, 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30, 33, 34, 35, 38, 39, 40, 45, 46 and 47, All in Block 44, Township 1 South, T&P Ry. Co. Lands; (all casinghead gas produced from the Goldsmith San Andres Unit is specifically excepted herefrom)

State "AU" Lease No. 16680 - N/2 of Section 33, Block 11, University Lands;

R. B. Cowden et al., Lease No. 14833 - N/2 NE/4 Section 3, Block 45, Township 1 North, T&P Ry. Co. Lands;

E/2 of NW/4 of Section 9, Block 45, Township 2N, T&P Ry. Co. Survey;

#10 & #11 - Scharbauer "D" - S/2 of SW/4 Section 34, Block 44, Township 1 North, T&P Ry. Co. Lands;

Scharbauer "B" - N/2 of SW/4 Section 29, Block 44, Township 1 North, T&P Ry. Co. Lands.

1. DELIVERY AND TRANSFER OF TITLE—The gas shall be delivered at the casingheads of the wells or at any other point or points of separation of oil and gas. Upon delivery, title to the gas and all components thereof shall pass to and vest in Buyer without warranty of any kind by Seller, except that Seller warrants the gas delivered hereunder to be free from liens and adverse claims created by it or arising through operations conducted prior to delivery hereunder. Seller may use any residual shrinkage, and the taking of casinghead gas by Buyer shall be subordinate to said operations.

2. DELIVERY DATE—Delivery of the gas shall begin November 1, 1971 or such earlier date as Buyer may elect to accept delivery by said date and shall obligate Buyer to pay, as full consideration for the volumes of gas delivered hereunder, the price stated in the agreement specified and not taken by Buyer, the "Base In Casis Per Thousand Cubic Feet" shown in the attached TABLE II applicable to the well producing the gas, provided, however, that during the first [illegible] months of the term hereof, Buyer's obligation to take and pay for gas produced shall be deferred by the provisions of Paragraph 3 hereof. In the event Buyer fails to accept delivery of gas within [illegible] months from the aforesaid delivery date, either party hereto may thereafter terminate this contract as may then another 10 days' written notice to the other unless Buyer commences taking gas within said 10 day period.

3. TAXES—After the commencement of actual taking of gas Buyer agrees to take all gas coming more than three-fourths gallons of gasoline per thousand cubic feet. However, it is understood that Buyer may process the gas delivered in a plant or plants and that gas processed from gasoline per thousand cubic feet. However, it is understood that Buyer may process the gas delivered in a plant or plants and that gas processed from limited from other properties may also be processed in any such plant, and in the event Buyer's plant or gathering system is of insufficient capacity to gather and process all of the gas covered thereby, Buyer shall be obligated only to take gas ratably from all leases delivering commingled gas to the gathering system into which Seller's gas is delivered. Buyer shall have the option of installing such quantity of gas compressing facilities, gasoline or [illegible] as may be necessary to take the gas delivered hereunder, but Seller shall have the right to dispose of any gas not taken or paid for by Buyer, subject to Buyer's right to take such gas at any subsequent time. In the event the gas from any well or wells is or becomes insufficient in pressure, volume or gasoline content or for any other reason is or becomes unprofitable, in the judgment of Buyer, Buyer shall have the right to release or cease taking the gas from any such well or wells as long as such condition exists or may reasonably thereafter exist upon 10 days' notice in writing to Seller.

4. MEASUREMENT—The casinghead gas delivered hereunder shall be measured by an orifice meter or meters of standard make or be furnished, installed and kept in repair by Buyer, on the land herein described and all volumes of such gas shall be computed to a standard cubic foot as a pressure base of 14.65 pounds per square inch absolute and at a temperature base of 60 degrees Fahrenheit. In making such measurements, the flowing temperature of the gas and the variable factors necessary to calculate the metered volumes in accordance with the Ideal Gas Laws and the variable factors to correct for deviation from the Ideal Gas Laws shall be in accordance with rules, regulations and determinations of the Railroad Commission of Texas. The specific gravity shall be determined quarterly by the Balance Method. Said meter shall be open to inspection by Seller at the premises of Buyer. Buyer shall test said meter quarterly for accuracy of measurement. In case any question arises as to the accuracy of the meter measurements, said meter shall be tested upon the demand of either party, and if any error found, the meter shall be corrected. A registration within 2 per cent of correct shall be considered correct. The volume delivered for any period of inaccurate measurement shall be determined by using an arithmetic average daily volume based upon said measured volume for 10 days prior to and 10 days following the period of inaccurate measurement.

5. GAS FOR LEASE OPERATION—Buyer shall not be required to return to Seller's lease or leases raw or processed gas for lease development and operating purposes. If Seller desires gas for such purposes, then Seller may either use raw gas produced from the wells delivering gas hereunder, so long as such gas is taken from the upstream side of Buyer's meter, or take processed gas from the outlet point or [illegible] gas stream (if any) provided, however, that Buyer may at any time elect to return processed gas to Seller's lease or leases and in such event Seller shall use such processed gas in lieu of gas taken from the upstream side of Buyer's meter. The volume of processed gas to which Seller is entitled shall not exceed in the aggregate that volume of gas determined by multiplying the volume of raw gas produced and delivered during the settlement period from each lease by the applicable "Per Cent" figure in TABLE I. Buyer shall be under no obligation to deliver such gas at gauge pressure in excess of 15 pounds per square inch. In the event Buyer delivers and Seller accepts gas in excess of the volume of gas to which Seller is entitled for lease development and operations, Seller shall pay Buyer for such excess gas delivered during any calendar month (the volume determined by estimate or measurement) at the [illegible] per thousand cubic feet [illegible] lease development and operations is insufficient for such purposes, Seller reserves the right to use raw gas from Seller's wells sufficient for such purposes. Buyer shall not be obligated to process gas for Seller's account.

6. TEST GASOLINE CONTENT—Quarterly, Buyer shall make a physical field test of the gas delivered hereunder and determine thereby the test gasoline content of the gas per thousand cubic feet which is to be used during the succeeding quarterly period in the computations under Paragraphs 2, 3, 5 and 7. Such physical field tests shall be made by a field charcoal adsorption test, or at Seller's option by a field compression test, in accordance with Testing Code 101-43 adopted by the American Gas Association and the Natural Gas Processors Association. Buyer shall notify Seller in writing of the date of taking the quarterly tests at least 10 days prior thereto. Seller may witness the tests or make joint tests with its own appliances. The volume of gas used in making the test shall be computed to a base pressure of 14.65 pounds per square inch absolute and at a temperature base of 60 degrees Fahrenheit in computing the net gasoline content per thousand cubic feet.

7. PRICE—As full consideration for the gas and all components thereof purchased by Buyer hereunder, Buyer shall pay Seller a price which shall be the sum of the computations prescribed in A and B below:

A. Multiply the volume of gas delivered by the applicable "Base In Cash Per Thousand Cubic Feet" shown in TABLE II as amended in accordance with the provisions of (1), (2) and (3) below.

(1). In the event the total net gasoline content of all of the gas processed in Buyer's plant during the month equals or exceeds a daily average of 10,000 net gallons, the applicable "Base In Cash Per Thousand Cubic Feet", shown in TABLE II, shall be increased in accordance with the following schedule:

Daily Average Gallons of Net Gasoline Content per Mcf Processed in the Plant During the Month	Percentage of Increase
10,000 but less than 20,000	10%
20,000 but less than 30,000	20%
30,000 but less than 40,000	30%
40,000 and more	40%

(2) In the event the gas is delivered during any month at an average daily gauge pressure exceeding 50 pounds per square inch, as measured by the static pressure on the meter chart, add an additional .1340¢ to the applicable "Base In Cash Per Thousand Cubic Feet" shown in TABLE II.

EXHIBIT "A"

(3) In the event the weighted average of the daily A.P.I. gravities of all raw unfractionated gasoline manufactured during the settlement period at the plant at which the gas purchased hereunder is processed exceeds 93, the applicable "Rate In Cents Per Thousand Cubic Feet" shown in TABLE II shall be increased by the amount obtained by multiplying the "Price of Gasoline in Cents per Gallon", determined as provided in the Note to TABLE II, by the raw gasoline contents per thousand cubic feet of the gas delivered hereunder times one-half of one per cent for each full degree that such weighted average A.P.I. gravity exceeds 93 (and a proportionate additional amount for any fractional parts of a degree). The arithmetic average of the gravities of all such gasoline produced during any twenty-four hours day shall be deemed the gravity of all such gasoline manufactured during such day. A.P.I. gravity shall be as defined by U. S. Department of Commerce, Bureau of Standards Circular C410.

The A.P.I. gravity of the raw unfractionated gasoline manufactured at such plant shall be determined by a recording gravitometer, the accuracy of which shall be checked at least once each month. Seller shall be entitled to be present at such tests and, upon written request to Buyer, shall be notified when such tests will be made. A recording within five-tenths of one degree of the correct A.P.I. gravity shall be considered correct. Settlement for any period of inoperation or of inaccurate recording shall be in accordance with the average readings taken during the last preceding 5 days when the gravitometer was recording accurately and the first 5 days after the gravitometer was restored to accuracy.

seventy percent (70%) of the price per thousand cubic feet

B. Multiply the volume of gas sold allocable to Seller by [illegible] Buyer receives under the Sales Contract, adjusted as hereinafter provided, for the sale of gas of the same pricing vintage as gas delivered hereunder.

1. DEFINITIONS—The term "casinghead gas" means gas arising from oil wells produced from the same sand or strata from which the oil is produced or as the result of the induction of gas by any method for facilitating or increasing the production of the oil, and gas separated from oil after production.

The term "Sales Contract" as used herein shall mean that certain contract dated January 1, 1953, between El Paso Natural Gas Company and Phillips Petroleum Company covering the purchase of gas from Phillips' Goldsmith Plant in Ector County, Texas. The price per thousand cubic feet Buyer receives under the "Sales Contract" is, or may be, subject to regulation by the Federal Power Commission. The phrase "price per thousand cubic feet Buyer receives," as used in this contract, shall mean only that portion of the price exclusive of any tax reimbursement then being collected by Buyer under the Sales Contract which is not subject to possible future refund by Buyer. If Buyer is later determined to be entitled to retain all or part of the amount collected subject to refund and is relieved from all further obligation to refund with respect thereto, Buyer shall retroactively recalculate the price payable hereunder and shall pay Seller the difference, without interest, between the amount previously paid Seller hereunder and the amount which would have been payable based on the price which Buyer is so permitted to retain. The "price per thousand cubic feet Buyer receives" shall be adjusted as follows. Any amount received from the purchaser for transportation, purification, dehydration or compression prior to delivery shall be deemed to be a part of the price received by Buyer. If any of the gas so sold is compressed (either before or after being processed in Buyer's plant) and delivered at an average gauge pressure in excess of 50 pounds per square inch, there shall be deducted from the price received from such sale .1786¢ per thousand cubic feet for each 25 pounds or fraction thereof of the excess between the foregoing specified average gauge pressure and the lesser of either the delivery pressure or 200 pounds per square inch and, if the delivery pressure exceeds 200 pounds per square inch, an additional .1786¢ per thousand cubic feet for each 100 pounds or fraction thereof of the excess between 200 pounds per square inch and the delivery pressure. If any of the gas so sold is purified prior to its delivery there shall be deducted from the price received from such sale the cost of purifying such gas. From the price received from the sale of any such gas which is dehydrated prior to its delivery there shall be deducted .1340¢ per thousand cubic feet. In the event Buyer transports the gas from the plant to the point of delivery to the purchaser, there shall also be deducted from the price per thousand cubic feet received from such sale the reasonable cost, including return on depreciated investment, of such transportation.

The phrase "weighted average price per thousand cubic feet" shall mean the weighted average price received by Buyer and its subsidiaries for all gas connected to Buyer's plant which was sold either prior to processing or after discharge in the form of gas from the equipment at the plant used for the manufacture of raw unfractionated gasoline, adjusted as hereinafter provided. Any amount received from the purchaser for transportation, purification, dehydration or compression prior to delivery shall be deemed to be a part of the price received by Buyer. If any of the gas so sold is compressed (either before or after being processed in Buyer's plant) and delivered at an average gauge pressure in excess of _____ pounds per square inch, there shall be deducted from the price received from such sale .1786¢ per thousand cubic feet for each 25 pounds or fraction thereof of the excess between the foregoing specified average gauge pressure and the lesser of either the delivery pressure or 200 pounds per square inch and, if the delivery pressure exceeds 200 pounds per square inch, an additional .1786¢ per thousand cubic feet for each 100 pounds or fraction thereof of the excess between 200 pounds per square inch and the delivery pressure. If any of the gas so sold is purified prior to its delivery there shall be deducted from the price received from such sale _____¢ per thousand cubic feet when the daily average volume of all gas purified during the month is less than 5,597,000 cubic feet, _____¢ per thousand cubic feet when the daily average of all gas purified during the month equals or exceeds 5,597,000 cubic feet but is less than 22,389,000 cubic feet and _____¢ per thousand cubic feet when the daily average volume of all gas purified during the month equals or exceeds 22,389,000 cubic feet. From the price received from the sale of any such gas which is dehydrated prior to its delivery there shall be deducted .1340¢ per thousand cubic feet. In the event Buyer transports the gas from the plant to the point of delivery to the purchaser, there shall also be deducted from the price per thousand cubic feet received from such sale the reasonable cost, including return on depreciated investment, of such transportation.

Weighting shall be limited to volume and price only. In computing said weighted average price the volume of gas shall be measured on the basis of measurement provided in Paragraph 4.

~~The term "subsidiaries" shall mean corporations of which owning stock Buyer owns more than 50 per cent.~~

The volume of gas (determined by estimate or measurement) that was delivered to Seller for lease operation shall be deducted from the volume which Seller was entitled to have delivered for such purpose. The volume remaining shall be the numerator of a fraction, the denominator of which shall be the total of the volumes so remaining from all gas delivered to Buyer's plant, determined in the same manner. The "volume of gas sold allocable to Seller", as used in this contract, shall be determined by multiplying the above fraction by the total volume of the gas connected to Buyer's plant which was sold, during the month for which settlement is made, either prior to processing or after discharge in the form of gas from the equipment at the plant used for the manufacture of raw unfractionated gasoline.

~~Any use by Buyer or its subsidiaries of processed gas or of unprocessed gas taken into the gathering system connected to the plant, except that required for operation of Buyer's plant and other facilities used in connection with gathering the gas or processing the raw unfractionated gasoline, and except that delivered for development and operation of Buyer's leases furnishing gas to the plant (the last excepted volume not to exceed the volume which Buyer would be entitled to have delivered for such purposes determined by the method prescribed in Paragraph 3 hereof), shall be deemed to be a sale of such gas. For the purpose of determining hereunder the gas deemed so sold shall be priced at the weighted average price per thousand cubic feet during the month preceding that for which settlement is made.~~

The term "plant", as used in this contract, is defined to be all equipment located in one yard used by Buyer for the manufacture of raw unfractionated gasoline. Equipment used by Buyer for fractionating the raw unfractionated gasoline shall not be considered a part of Buyer's plant. In the event Buyer has no equipment for distilling the raw unfractionated gasoline from the absorption oil in the same plant yard with its absorption equipment, the equipment in such plant yard, including the absorbers, shall nevertheless constitute a "plant" for all purposes of this contract except payment under subdivision A (3) of Paragraph 7. For payment under this subdivision where the raw unfractionated gasoline from more than one plant as above defined is distilled in the same equipment the gravity of the combined raw unfractionated gasoline shall be used. In the event the gas delivered hereunder is processed in more than one plant Buyer shall allocate such gas to each plant in the proportion that each plant receives gas from the common source.

9. PAYMENT—Payment for all gas delivered each month shall be made not later than the last day of the succeeding month. A statement showing the volume of gas purchased and the price computations under Paragraph 7 shall be transmitted monthly to Seller with the exception that, in respect of the weighted average price per thousand cubic feet, only the result of the computation need be shown. Seller shall have the right to examine the books and records of Buyer which pertain to the basis of payment for gas hereunder at Buyer's office at Bartlesville, Oklahoma, during regular office hours. Buyer need not preserve the books and records pertaining to payment for gas purchased during any month for longer than 2 years after payment therefor has been tendered.

10. TITLE—Seller warrants the title to the gas. ~~Upon request Seller shall furnish Buyer abstracts of title and Buyer shall not be required to make payment until Seller shall have furnished such abstracts covering the land described showing good and merchantable title to the gas. If Seller's title is questioned or involved in litigation, Buyer shall have the right to withhold payment without interest during the pendency of such litigation, or until said title is found free from such question, or until Seller furnishes bond conditioned to save Buyer harmless with surety acceptable to Buyer.~~ Without impairment of Seller's warranty of title, it is agreed that if Seller owns less than the full fee simple title to the gas delivered hereunder, the payments provided for herein shall be made only in the proportion that Seller's interest bears to the entire fee simple title of the gas.

11. ROYALTY—Seller agrees to make all payments accruing from the production and sale of gas hereunder to the owners of all royalties, overriding royalties, bonus payments and production payments and to hold Buyer harmless therefrom.

12. RIGHT OF WAY—Insofar as Seller's lease permits, Buyer is granted the right to lay and maintain lines and install any equipment on the land described necessary in connection with the purchase of Seller's gas and shall have the right of free entry thereon during the term of this contract. All lines and other equipment placed by Buyer on said land shall remain the property of Buyer and may be removed by Buyer at any time.

13. LAWS AND REGULATIONS—This contract shall be subject to all valid statutes and rules and regulations of any duly constituted federal or state regulatory body having jurisdiction.

14. FORCE MAJEURE—Neither party shall be liable for failure of performance due to labor controversies, fires, strikes, floods, lack of water, winds, lightning, accidents, or any other circumstances beyond the control of the party failing to perform whether of a similar or dissimilar nature.

15. TERM—This contract shall remain in effect for the life of the oil and gas lease covering the land described or any extensions or renewals thereof; provided, that either party shall have the right to terminate this contract at the expiration of ten (10) years from the date hereof or on any subsequent anniversary date by giving the other party 60 days' notice in writing.

16. ASSIGNMENT—This contract may be assigned by either party. No transfer of or succession to the interest of Seller, however effected, shall bind Buyer until the original instrument or other proper proof that the claimant is legally entitled to such interest shall have been furnished Buyer at its office in Bartlesville, Oklahoma.

17. COUNTERPART—This contract may be executed in any number of counterparts, all of which shall be considered together as one instrument, and this contract shall be binding upon all parties executing same, whether or not executed by all parties owning an interest in the above properties.

18. TERMINATION OF PRIOR CONTRACTS AND RELEASE—This contract terminates and supersedes any prior contracts between the parties hereto to the extent that such contracts cover the purchase and sale of gas covered by this agreement. In consideration of the covenants herein contained, Seller hereby acknowledges payment in full by Buyer of all sums owed Seller by Buyer for gas, whether from an oil well or gas well, produced from the land above described prior to the date of this contract, and hereby releases and waives all causes of action therefor.

IN WITNESS WHEREOF, the parties hereunto subscribed their names.

GULF OIL CORPORATION, By its Agent
MARLIN PETROLEUM CORPORATION

ATTEST:

Brian C. Hardin
Assistant Secretary

By: W. A. Shallabear
Vice President

Seller

ATTEST:

Assistant Secretary

PHILLIPS PETROLEUM COMPANY

By: LeRoy Culbertson
Vice President

Buyer

L. P. BIRK
GAS & GAS LIQUIDS

Corporate Form

STATE OF OKLAHOMA }
COUNTY OF WASHINGTON } ss.

Before me, the undersigned, a Notary Public in and for said County and State, on this 22nd day of December, 1971, personally appeared LeRoy Culbertson, to me known to be the identical person who subscribed the name of PHILLIPS PETROLEUM COMPANY to the within and foregoing instrument as its Vice President, and duly acknowledged to me that he executed the same as his free and voluntary act and deed, and as the free and voluntary act and deed of such corporation for the uses, purposes and consideration therein expressed and set forth.

Given under my hand and seal of office the day and year last above written.

My commission expires:
June 14, 1975

Dorothy M. Hunt
Notary Public
Dorothy M. Hunt

Corporate Form

STATE OF OKLAHOMA }
COUNTY OF TULSA } ss.

Before me, the undersigned, a Notary Public in and for said County and State, on this 6th day of December, 1971, personally appeared W. A. Shallabear, to me known to be the identical person who subscribed the name of Warren Petroleum Corporation, as Agent for Gulf Oil Corporation to the within and foregoing instrument as its Vice President, and duly acknowledged to me that he executed the same as his free and voluntary act and deed, and as the free and voluntary act and deed of such corporation for the uses, purposes and consideration therein expressed and set forth.

Given under my hand and seal of office the day and year last above written.

My commission expires:
October 6, 1974

Alan McEgan
Notary Public

Corporate Form

STATE OF _____ }
COUNTY OF _____ } ss.

Before me, the undersigned, a Notary Public in and for said County and State, on this _____ day of _____, 19____, personally appeared _____, to me known to be the identical person who subscribed the name of _____ to the within and foregoing instruments as its _____ and duly acknowledged to me that he executed the same as his free and voluntary act and deed, and as the free and voluntary act and deed of such corporation for the uses, purposes and consideration therein expressed and set forth.

Given under my hand and seal of office the day and year last above written.

My commission expires:

_____
Notary Public

Individual Form

STATE OF _____ }
COUNTY OF _____ } ss.

Before me, the undersigned, a Notary Public within and for said County and State, on this _____ day of _____, 19____, personally appeared _____, to me known to be the identical person who executed the within and foregoing instruments, and acknowledged to me that _____ executed the same as _____ free and voluntary act and deed for the uses, purposes and consideration therein expressed and set forth.

Given under my hand and seal of office the day and year last above written.

My commission expires:

_____
Notary Public

TABLE I

GPM	Per Cent	GPM	Per Cent	GPM	Per Cent	GPM	Per Cent	GPM	Per Cent
.25 or less	91.05	2.20	71.00	4.15	52.95	6.10	37.50	8.05	24.80
.30	90.50	2.25	70.50	4.20	52.50	6.15	37.20	8.10	24.50
.35	90.05	2.30	70.10	4.25	52.15	6.20	36.90	8.15	24.25
.40	89.60	2.35	69.60	4.30	51.80	6.25	36.55	8.20	24.00
.45	89.00	2.40	69.10	4.35	51.30	6.30	36.20	8.25	23.65
.50	88.60	2.45	68.65	4.40	50.80	6.35	35.80	8.30	23.30
.55	87.85	2.50	68.20	4.45	50.40	6.40	35.40	8.35	22.95
.60	87.30	2.55	67.70	4.50	50.00	6.45	35.10	8.40	22.60
.65	86.80	2.60	67.20	4.55	49.65	6.50	34.80	8.45	22.30
.70	86.30	2.65	66.70	4.60	49.30	6.55	34.45	8.50	22.00
.75	85.75	2.70	66.20	4.65	48.85	6.60	34.10	8.55	21.70
.80	85.20	2.75	65.75	4.70	48.40	6.65	33.85	8.60	21.40
.85	84.70	2.80	65.30	4.75	47.95	6.70	33.50	8.65	21.10
.90	84.20	2.85	64.90	4.80	47.50	6.75	33.15	8.70	20.80
.95	83.65	2.90	64.50	4.85	47.15	6.80	32.80	8.75	20.55
1.00	83.10	2.95	63.95	4.90	46.80	6.85	32.50	8.80	20.30
1.05	82.50	3.00	63.40	4.95	46.35	6.90	32.20	8.85	20.05
1.10	81.90	3.05	62.95	5.00	45.90	6.95	31.85	8.90	19.80
1.15	81.40	3.10	62.50	5.05	45.50	7.00	31.50	8.95	19.50
1.20	80.90	3.15	62.00	5.10	45.10	7.05	31.15	9.00	19.20
1.25	80.40	3.20	61.50	5.15	44.75	7.10	30.80	9.05	18.85
1.30	79.90	3.25	61.00	5.20	44.20	7.15	30.50	9.10	18.50
1.35	79.45	3.30	60.50	5.25	43.85	7.20	30.20	9.15	18.20
1.40	79.00	3.35	60.15	5.30	43.50	7.25	29.85	9.20	17.90
1.45	78.50	3.40	59.80	5.35	43.05	7.30	29.50	9.25	17.60
1.50	78.00	3.45	59.30	5.40	42.60	7.35	29.25	9.30	17.30
1.55	77.50	3.50	58.80	5.45	42.25	7.40	29.00	9.35	17.05
1.60	77.00	3.55	58.35	5.50	41.90	7.45	28.65	9.40	16.80
1.65	76.50	3.60	57.90	5.55	41.35	7.50	28.30	9.45	16.50
1.70	76.00	3.65	57.40	5.60	41.20	7.55	28.00	9.50	16.20
1.75	75.50	3.70	56.90	5.65	40.80	7.60	27.70	9.55	16.00
1.80	75.00	3.75	56.55	5.70	40.40	7.65	27.30	9.60	15.80
1.85	74.50	3.80	56.20	5.75	40.15	7.70	26.90	9.65	15.50
1.90	74.00	3.85	55.75	5.80	39.90	7.75	26.70	9.70	15.20
1.95	73.45	3.90	55.30	5.85	39.50	7.80	26.50	9.75	14.95
2.00	72.90	3.95	54.80	5.90	39.10	7.85	26.20	9.80	14.70
2.05	72.45	4.00	54.30	5.95	38.70	7.90	25.90	9.85	14.45
2.10	72.00	4.05	53.85	6.00	38.30	7.95	25.50	9.90	14.20
2.15	71.50	4.10	53.40	6.05	37.90	8.00	25.10	9.95 and over	13.95

Note to TABLE I: The "Per Cent" in the table opposite the "GPM" corresponding to the test gasoline content of the gas delivered (subject to adjustment as provided in the following paragraph), multiplied by the volume of gas delivered by Seller during the settlement period, shall be the volume of gas Seller is entitled to have delivered for lease development and operation.

In the event the A.P.I. gravity of the raw unfractionated gasoline (determined in accordance with subdivision A (3) of Paragraph 7) exceeds 93, the following deductions shall be made from the applicable "Per Cent" in the above table:

(a) 0.3% for each full degree that such gravity exceeds 93 when the gas delivered tests 1 gallon or less per thousand cubic feet,
(b) 0.2% for each full degree that such gravity exceeds 93 when the gas delivered tests more than 1 gallon but not more than 2 gallons per thousand cubic feet,
(c) 0.1% for each full degree that such gravity exceeds 93 when the gas delivered tests more than 2 gallons but less than 3 gallons per thousand cubic feet.
(d) No deduction shall be made when the gas delivered tests 3 gallons or more per thousand cubic feet.

TABLE II

Test Gasoline Contents in Gallons per 1,000 Cu. Ft. of Gas	.0 to .447	.447 to .893	.893 to 1.340	1.340 to 1.787	1.787 to 2.233	2.233 to 2.680	2.680 to 3.127	3.127 to 3.573	3.573 to 4.020	4.020 to 4.466	4.466 to 4.913	4.913 to 5.360	5.360 to 5.806	5.806 to 6.253
Price of Gasoline in Cents per Gallon	RATE IN CENTS PER THOUSAND CUBIC FEET													
Less than 2.0¢	.05	.11	.26	.40	.59	.86	1.11	1.33	1.50	1.68	1.85	2.02	2.20	2.38
2.0 to 2.5	.08	.17	.34	.56	.83	1.19	1.51	1.89	2.14	2.39	2.64	2.89	3.15	3.40
2.5 to 3.0	.10	.23	.44	.73	1.08	1.48	1.95	2.43	2.73	3.07	3.39	3.71	4.03	4.36
3.0 to 3.5	.14	.29	.58	.93	1.35	1.85	2.43	3.00	3.40	3.80	4.19	4.60	5.00	5.39
3.5 to 4.0	.17	.36	.71	1.14	1.66	2.25	2.93	3.61	4.10	4.58	5.06	5.54	6.03	6.51
4.0 to 4.5	.21	.45	.86	1.37	1.98	2.68	3.48	4.36	5.33	6.02	6.65	7.29	7.91	8.54
4.5 to 5.0	.26	.54	1.03	1.63	2.36	3.14	4.06	5.08	6.02	6.72	7.43	8.13	8.85	9.55
5.0 to 5.5	.31	.64	1.21	1.91	2.71	3.63	4.68	5.83	6.65	7.43	8.21	8.99	9.78	10.55
5.5 to 6.0	.36	.76	1.41	2.19	3.11	4.16	5.33	6.43	7.29	8.13	8.99	9.85	10.71	11.56
6.0 to 6.5	.42	.87	1.62	2.51	3.54	4.70	6.02	6.98	7.91	8.85	9.78	10.71	11.64	12.56
6.5 to 7.0	.49	1.00	1.85	2.85	3.99	5.29	6.53	7.54	8.54	9.55	10.55	11.56	12.56	13.57
7.0 to 7.5	.56	1.13	2.08	3.19	4.47	5.91	7.02	8.10	9.18	10.26	11.34	12.42	13.49	14.57
7.5 to 8.0	.63	1.27	2.33	3.56	4.97	6.55	7.51	8.66	9.81	10.97	12.12	13.27	14.43	15.58
8.0 to 8.5	.70	1.43	2.60	3.93	5.50	6.76	7.99	9.21	10.45	11.67	12.90	14.13	15.36	16.58
8.5 to 9.0	.79	1.58	2.87	4.36	5.86	7.17	8.47	9.78	11.08	12.38	13.68	14.99	16.29	17.59
9.0 to 9.5	.87	1.75	3.17	4.79	6.20	7.58	8.96	10.33	11.71	13.09	14.47	15.84	17.22	18.59
9.5 to 10.0	.96	1.93	3.48	5.09	6.53	7.99	9.44	10.89	12.34	13.80	15.24	16.70	18.15	19.60
10.0 to 10.5	1.06	2.10	3.79	5.35	6.87	8.40	9.92	11.45	12.98	14.50	16.03	17.56	19.08	20.60
10.5 to 11.0	1.16	2.30	4.01	5.61	7.20	8.80	10.41	12.01	13.61	15.21	16.81	18.41	20.01	21.61
11.0 to 11.5	1.26	2.51	4.19	5.86	7.54	9.21	10.89	12.56	14.24	15.91	17.59	19.26	20.94	22.61
11.5 to 12.0	1.37	2.63	4.38	6.12	7.87	9.63	11.38	13.13	14.88	16.62	18.37	20.12	21.87	23.62

Note to TABLE II: The "Price of Gasoline in Cents Per Gallon" to be used in this table shall be the arithmetic average of the prices per gallon of 56° A. P. I. gravity crude oil posted by The Texas Company, Humble Oil and Refining Company and Gulf Oil Corporation for West Texas for the settlement period. In the event one or more of the above purchasers does not post prices for such crude oil during the settlement period then the posted prices of the remaining companies or company shall be used. In the event none of the above purchasers post prices for such crude oil during the settlement period then Buyer shall use the arithmetic average of the posted prices of the purchaser purchasing the largest volume of 56° A.P.I. gravity crude oil for West Texas. The applicable "Rate In Cents Per Thousand Cubic Feet" in the figure horizontally opposite the "Price of Gasoline in Cents Per Gallon", determined as above provided, and vertically below the "Test Gasoline Content in Gallons per 1,000 Cu. Ft. of Gas" (GPM) corresponding to the test gasoline content of the gas delivered hereunder, as determined in accordance with Paragraph 6. Each test gasoline content and sales price division in the above table includes the smaller but excludes the larger figure.

Whenever the "Price of Gasoline in Cents Per Gallon" exceeds 12¢, the applicable "Rate in Cents Per Thousand Cubic Feet" shall be determined by means of the following formula: GPM x "Price of Gasoline in Cents Per Gallon" x .3333. Whenever the GPM exceeds 6.253, the applicable "Rate in Cents Per Thousand Cubic Feet" shall be determined by means of the following formula: GPM x "Price of Gasoline in Cents Per Gallon" x "Factor". The "Factor" to be so employed shall be the applicable one shown in the table below:

Price of Gasoline in Cents Per Gallon	Factor
Less than 2.0¢	.2250
2.0 to 2.5	.2500
2.5 to 3.0	.2625
3.0 to 3.5	.2750
3.5 to 4.0	.2875
4.0 and above	.3333

Each price division in the foregoing table includes the smaller but excludes the larger figure.

[211] UNITED STATES OF AMERICA
BEFORE THE FEDERAL POWER COMMISSION

Docket No. CI75-594

Texaco, Inc.

(FILED MAY 14, 1975)

Petition to Intervene of Northwest Pipeline Corporation

Pursuant to Section 15(a) of the Natural Gas Act, 15 USC Section 717n(a) (1970), and Section 1.8 of the Commission's Rules of Practice and Procedure, Northwest Pipeline Corporation ("Northwest") hereby respectfully petitions the Commission for leave to intervene in the above-captioned proceeding. In support of this petition, Northwest respectfully shows as follows:

1. Northwest Pipeline Corporation is a Delaware Corporation with principal offices in Salt Lake City, Utah. All communications concerning this petition should be addressed as follows, and the following persons should be included in the Commission's official service list:

Edward J. Grenier, Jr., Esquire
Richard P. Noland, Esquire
Sutherland, Asbill & Brennan
1666 K Street, N.W.
Washington, D.C. 20006

William P. Diener, Esquire
Mel S. Martin, Esquire
Northwest Pipeline Corporation
P.O. Box 1526
Salt Lake City, Utah 84110

2. Northwest owns and operates a natural gas pipeline system in the western part of the United States which was previously owned and operated as the northwest division of El Paso Natural Gas Company ("El Paso") through January 31, 1974. On February 7, 1974, this system was transferred to Northwest pursuant to a Federal Court divestiture decree. Northwest delivers gas to customers in Colorado, Idaho, Oregon, Utah, Washington, and Wyoming. In 1973, total sales of the northwest division were about 455 billion cubic feet.

[212] 3. This proceeding involves a Petition for Declaratory Order filed by Texaco, Inc. concerning the lessee's ability to encumber or otherwise restrict the royalty owner's interest in an oil and gas lease. Northwest is a party to several gas purchase contracts which include contractual provisions authorizing a royalty owner to convert his interest to a working interest upon pay out. Northwest, thus, has an interest in the jurisdictional status of such royalty owner and the price at which such working interest can lawfully be sold.

4. In view of the foregoing, Northwest has a substantial and vital interest in the outcome of this proceeding and desires to intervene in order to protect that interest. Northwest is an interested party in this proceeding within the meaning of Section 15(a) of the Natural Gas Act, 15 USC Section 717n(a) (1970), and its intervention and participation in such proceeding will be in the public interest. Northwest is not now, and will not be adequately represented by any other party in this proceeding, and may be bound or adversely affected by the Commission's action herein.

WHEREFORE, for the foregoing reasons, Northwest respectfuliy requests the Commission to issue an order granting it leave to intervene and admitting it as a party to this proceeding with the right to have notice of and to appear at all hearings and prehearing conferences, if such hearings and prehearing conferences are held, to produce evidence and present witnesses, to be heard by counsel and other representatives, to submit briefs, to make oral argument, if oral argument be heard, and to do all other things which any party may properly do.

Respectfully submitted,

/s/ Richard P. Noland
EDWARD J. GRENIER, JR.
RICHARD P. NOLAND
SUTHERLAND, ASBILL & BRENNAN
1666 K Street, N.W.
Washington, D.C. 20006
(202) 872-7800

Attorneys for
Northwest Pipeline Corporation

Of Counsel:

WILLIAM P. DIENER, ESQ.
MEL S. MARTIN, ESQ.
NORTHWEST PIPELINE CORP.
P.O. Box 1526
Salt Lake City, Utah 84110
(801) 328-8252

May 14, 1975

[213] (AFFIDAVIT OMITTED IN PRINTING)

• • • • • • • • • •

(CERTIFICATE OF SERVICE OMITTED IN PRINTING)

• • • • • • • • • •

[214]

UNITED STATES OF AMERICA
FEDERAL POWER COMMISSION

Docket No. CI75-594

TEXACO, INC.

(RECEIVED MAY 27, 1975)

Petition to Intervene and Response of Phillips Petroleum Company

Phillips Petroleum Company (Phillips) hereby petitions the Commission for leave to intervene in the captioned proceeding and as grounds therefor would respectfully show as follows:

I.

The names, titles and mailing addresses of those persons to whom correspondence and communications concerning this matter are to be addressed are as follows:

Sam Jennings, Manager
Laws and Regulations Branch
Gas and Gas Liquids Division
Phillips Petroleum Company
Bartlesville, Oklahoma 74004
Phone: (918) 661-5513

John L. Williford
Senior Counsel
583 Frank Phillips Building
Phillips Petroleum Company
Bartlesville, Oklahoma 74004
Phone: (918) 661-3760

Phillips is a corporation organized under the laws of the State of Delaware, having its principal place

of business in Bartlesville, Oklahoma, and is authorized to conduct business in all fifty (50) states and the District of Columbia.

[215] II.

On January 20, 1975, El Paso Natural Gas Company (El Paso) filed with the Commission a petition for issuance of a declaratory order to resolve certain questions posed by El Paso as a result of the termination of a certain fifty (50) year fixed term lease in the State of Texas, and the consequent reversion of the mineral rights thereunder to certain reversionary interests. Such lease is presently held by Gulf Oil Corporation and the gas from such lease sold to El Paso.

On April 8, 1975, Texaco Inc. filed a petition for a declaratory order to resolve a question as to its rights as the mineral interest reversionary owner. Specifically, Texaco alleged that it is a reversionary mineral interest owner of a fifty (50) year fixed term lease on properties in Ector County, Texas, and that the mineral rights revert to the reversionary interest owners including Texaco on August 7, 1975, which is the date the leasehold estate expires. Texaco's petition further alleges that Gulf is the lessee of said fifty (50) year fixed term lease and that Gulf is currently selling natural gas from properties covered by such lease to Phillips pursuant to a casinghead gas sales contract, which gas is sold by Phillips to El Paso at the tailgate of Phillips' Goldsmith Plant pursuant to Phillips' FPC Gas Rate Schedules No. 7, 32, 33, 497 and 483.

On April 30, 1975, Texaco filed a motion to consolidate for briefing, hearing and decision its petition for issuance of a declaratory order with the proceeding pending at El Paso Natural Gas Company, Docket No. CP75-209, asserting that the legal issue to be decided, as well as the basic factual situation, is the same in both dockets.

On May 6, 1975, El Paso filed its petition for leave to intervene and answer to the motion of Texaco Inc. to consolidate proceedings and answer to the petition of Texaco Inc. for issuance of a declaratory order in the captioned docket. In such answer El Paso asserted that it takes delivery each day at [216] Phillips' Goldsmith Plant of approximately 18 million cubic feet of surplus residue gas attributable to production from acreage covered by the fifty (50) year fixed term lease referred to in Texaco's petition. El Paso asserted that such gas is transported through El Paso's jurisdictional facilities for resale in interstate commerce. By incorporation of a previous pleading filed in Docket CP75-209 on April 25, 1975, El Paso asserts herein that the Commission's order should resolve, *inter alia,* the following question:

> "(iii) Given the facts set forth in (i), without prior Commission authorization, may Phillips reduce its sales in interstate commerce of residue natural gas to El Paso, the present level of which is attributable in part to production from the lease in question?"

III.

As the seller of surplus residue gas to El Paso, which gas is in part attributable to the lands covered by the fifty (50) year fixed term lease to Gulf, Phillips is a material party to this proceeding and has a direct interest therein, which interest cannot be adequately represented by any party to this proceeding. Phillips is aware that the time for the filing of petitions to intervene in this proceeding expired on May 14, 1975, under the Commission's notice dated April 22, 1975; however, Phillips submits that its participation will not delay or hinder the proceedings in any manner and that it will accept any dates or scheduling prescribed by the Commission prior to the filing of this petition to intervene.

It is Phillips' position that upon the cessation of deliveries to it by Gulf of gas from the lands covered by the fifty (50) year fixed term lease, Phillips may without prior Commission authorization reduce its sales of residue natural gas to El Paso, by the amount which is attributable to production from the lease in question.

[217] IV.

Wherefore, premises considered Phillips prays that it be allowed to intervene out of time in this proceeding and to participate in all phases thereof, including the presentation of testimony and the cross examination of witnesses in the event of a hearing. In this latter connection Phillips concurs that there are no disputed facts and that the legal questions involved in this proceeding, as well as in Docket No.

CP75-209, can be determined by the Commission on briefs.

Respectfully submitted,

JOHN L. WILLIFORD
LARRY PAIN
Attorneys for
Phillips Petroleum Company

/s/ By John L. Williford
JOHN L. WILLIFORD
583 Frank Phillips Building
Bartlesville, Oklahoma 74004

May 21, 1975

[218] (AFFIDAVIT OMITTED IN PRINTING)

. . . . . .

[219] (CERTIFICATE OF SERVICE OMITTED IN PRINTING)

. . . . . .

[220]

. . . . . .

[221] UNITED STATES OF AMERICA
FEDERAL POWER COMMISSION

Before Commissioners: John N. Nassikas, Chairman; William L. Springer, and Don S. Smith.

Docket No. CP75-209

EL PASO NATURAL GAS COMPANY

Docket No. CI75-594

TEXACO INC.

(Issued June 3, 1975)

Order Consolidating Proceedings, Granting Petitions to Intervene, and Prescribing Schedule for Filing of Briefs

On January 20, 1975, El Paso Natural Gas Company (El Paso) filed in Docket No. CP75-209 a petition for a declaratory order resolving certain questions in connection with the expiration of a 50-year fixed term lease, currently held by Gulf Oil Corporation and others (Gulf, *et al.*), which will expire on July 14, 1975. The facts as presented by El Paso are as follows.

On July 14, 1925, Gulf Production Company, the corporate predecessor of Gulf Oil Corporation (Gulf), as lessee, executed with W. N. Waddell, *et al.*, as lessors, a 50-year fixed term oil and gas lease. By the terms of said lease Gulf obtained the exclusive right to produce and sell oil and gas from 45,771 acres of land in Crane County, Texas. When Gulf, *et al.*'s, leasehold expires on July 14, 1975, the mineral rights, including the rights to natural gas production shall revert to the

reversionary mineral interest owners,[1] (hereinafter referred to as Southland, *et al.*).

[222] Presently, Gulf, *et al.*, make percentage-type sales to Warren Petroleum Company, a Division of Gulf Oil Corporation (Warren), of certain quantities of casinghead gas produced from said Crane County acreage. Pursuant to two gas purchase contracts, dated January 26, 1951, and March 1, 1972, Warren sells to El Paso approximately 60,000 Mcf per day of surplus residue gas at the outlet of the Waddell Gasoline Plant, which gas El Paso transports through its jurisdictional facilities for subsequent resale in interstate commerce. Approximately 25,000 Mcf per day of such residue gas sold to El Paso is attributable to production from wells on land leased by Gulf, *et al.*

El Paso has learned that Southland, *et al.*, is soliciting proposals from intrastate gas transmission companies for the purchase of Southland, *et al.'s* shares of natural gas from the Crane County acreage produced after July 14, 1975. Anticipating an attempt to divert the leasehold gas from interstate to intrastate markets with concomitant reductions in supply to El Paso's system, El Paso is petitioning the Commission for a declaratory order resolving the following questions:

(1) May Southland, *et al.*, divert natural gas from interstate commerce to intrastate commerce

[1] The reversionary mineral interest owners include Exxon Corporation whose interest represents approximately 14% of the term lease gas, and Southland Royalty Company (Southland), soliciting on behalf of itself, the estate of Warren Wright and the Penn interests (collectively Mineral Interest Owners) whose interest represents approximately 81% of the term lease gas. The remaining 5% interest is divided among more than 100 separate interest holders.

without prior permission and approval of the Commission?

(2) Must Gulf, *et al.*, obtain abandonment permission and approval in order to cease sales to Warren and to effectuate a transfer to Southland, *et al.*?

(3) May Warren reduce its sales to El Paso to the extent such sales are attributable to production from the subject leasehold property without prior Commission permission and approval?

Notice of El Paso's petition was published in the Federal Register on February 7, 1975 (40 FR 5818). A notice of intervention was filed by the Public Utilities Commission of California (P.U.C.C.). Petitions for leave to intervene were filed in Docket No. CP75-209 by (1) parties to the transaction in question: Exxon, Mineral Interest Owners, and Gulf; (2) customers of El Paso: Southern California Gas Company and Southwest Gas Corporation; and (3) companies that claim the proceeding in Docket No. CP75-209 may have a collateral effect upon them: Mobil Oil Corporation (reversioner under similar lease), Texaco Inc. (reversioner under a similar lease), and Mitchell Energy Corporation (similar issues in *Mitchell Energy Corporation,* Docket No. CI75-296).

[223] On April 8, 1975, Texaco Inc. (Texaco) filed in Docket No. CI75-594 a petition for a declaratory order to resolve a question similar to a question propounded by El Paso in Docket No. CP75-209 (question 1, *supra*) but stated differently. Texaco asks whether a lessee by making an interstate gas sale can commit

more than its real property interest (*i.e.*, its rights under its lease) thereby both encumbering forever the real estate and imposing upon the nonparticipating mineral fee owner the obligations of Section 7 of the Natural Gas Act.

The facts underlying Texaco's request for declaratory relief are notably similar to the facts alleged in Docket No. CP75-209. On August 7, 1925, Gulf, as lessee, and Goldsmith, *et al.*, as lessors, executed a 50-year fixed term oil and gas lease by the terms of which Gulf obtained exclusive mineral rights to some 19,840 acres of land in Ector County, Texas, until August 7, 1975, whereupon such mineral rights revert to the reversionary mineral interest owners (hereinafter referred to as Texaco, *et al.*).[2] Gulf sells gas from its Ector County leasehold to Phillips Petroleum Company (Phillips) under a percentage-type casinghead gas sales contract. Phillips then sells the residue gas from the tailgate of its Goldsmith Plant to El Paso under Phillip's FPC Gas Rate Schedule Nos. 7, 32, 33, 483, and 497. Approximately 18,000 Mcf per day of the residue gas sold to El Paso by Phillips is attributable to production from the Ector County lease.

Notice of Texaco's petition was published in the Federal Register on April 29, 1975 (40 FR 18598). El Paso Gulf, Phillips,[3] and Mineral Interest Owners filed petitions to intervene in Docket No. CI75-594, as did

---

[2] By deed executed May 4, 1929, Texaco acquired a ¼ interest in the reversionary mineral rights to the Ector County property from Leon Goodman, *et al.* Presumably, Leon Goodman, *et al.*, retain the remaining ¾ reversionary interest.

[3] Phillips petition to intervene was filed out of time.

Northwest Pipeline Corporation which claims that the proceeding may have a collateral effect upon it. A notice of intervention in Docket No. CI75-594 was filed out of time by P.U.C.C.

Based upon the similarity of the facts and legal questions presented in Docket No. CI75-594 with those in Docket No. CP75-209, Texaco filed a motion to consolidate the two proceedings, which motion El Paso supports. [224] the Commission agrees that the proceedings should be consolidated.

As the petitions for declaratory order present strictly questions of law and there has been presented neither factual dispute nor a request for formal hearing, the Commission sees no need to hold an evidentiary hearing prior to its decision. So that each of the aforementioned parties may fully develop the law from which the nature of its alleged rights and interests may by determined the Commission will allow those parties and the Commission staff to file briefs with the Commission on the issues set forth in the petitions in Docket Nos. CP75-209 and CI75-594. In order that the Commission's decision may be reached prior to the expiration of the lease in Docket No. CP75-209 (July 14, 1975), the Commission is providing a briefing schedule as set forth below.

The Commission finds:

(1) The proceeding in Docket No. CP75-209 shares similar facts and common questions of law with the proceeding in Docket No. CI75-594.

(2) Participation by P.U.C.C. and Phillips in Docket No. CI75-594 will not delay the instant pro-

ceedings and therefore good cause exists for accepting their late notice of intervention/petition to intervene.

(3) Participation by the petitioners to intervene in Docket Nos. CP75-209 and CI75-594 may be in the public interest.

(4) It is necessary and proper in the public interest that these proceedings be expedited in accordance with the procedure set forth below.

The Commission orders:

(A) The proceeding in Docket No. CI75-594 is hereby consolidated with the proceeding in Docket No. CP75-209 for purposes of briefing and decision.

(B) The petitioners to intervene are hereby permitted to intervene in this consolidated proceedings subject to the rules and regulations of the Commission; *Provided, however,* that participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in the petitions to intervene; [225] and *Provide, further,* that the admission of such interveners shall not be construed as recognition by the Commission that they might be aggrieved because of any order of the Commission entered in this proceeding.

(C) Initial briefs on the questions presented in Docket Nos. CP75-209 and CI75-594 may be filed by any party to this consolidated proceeding and the Commission staff on or before June 11, 1975.

(D) Reply briefs shall be filed on or before June 18, 1975.

By the Commission.

(SEAL)

MARY B. KIDD,
Acting Secretary.

[226-237] (NOT USED)

• • • • • • • • • •